

WRAP AROUND MORTGAGE

This Mortgage Deed, made and executed on Saturday, July 12, 2003, by **Zarada Louise Andrade** hereinafter called the Mortgagor which term shall include the heirs, legal representatives, successors and assigns of the said Mortgagor wherever the context so requires or admits, to **Deborah Dean Carruthers** hereinafter called the Mortgagee, which term shall include the heirs, legal representatives, successors and assigns, of the said Mortgagee wherever the context so requires or admits. *cc/*

WITNESSETH: That for good and valuable consideration, and also in consideration of the aggregate sum named in the promissory note of even date herewith hereinafter described, the said Mortgagor does hereby grant, bargain, sell, alien, remise, release, convey and confirm unto the said Mortgagee, his heirs, successors and assigns, all the certain piece, parcel or tract of land, of which the said Mortgagor is now seized and possessed and in actual possession, described as follows:

Lot 10 in Block 24 of Tract 1005, Fourth Addition to Klamath River acres.

To have and to hold together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining and the reversion and reversions, remainder and remainders, rents, issues and profits thereof and also all the estate, right, title, interest, property, possession, claim and demand whatsoever as well in law as in equity of the said Mortgagor in and to the same and every part and parcel thereof unto the said Mortgagee, and his heirs, successors and assigns in fee simple.

And said Mortgagor, for himself, his heirs, legal representatives, successors and assigns, hereby covenants with said Mortgagee, his heirs, legal representatives, successors and assigns that said Mortgagor is indefeasibly seized of said land in fee simple; that the said Mortgagor has full power and lawful right to convey the same in fee simple as aforesaid; that it shall be lawful for said Mortgagor, his heirs, legal representatives, successors and assigns, at all times peaceably and quietly to enter upon, hold, occupy and enjoy said land and every part thereof: that said land is free from all incumbrances, except those specifically mentioned in this Mortgage; that said Mortgagor, his heirs, legal representatives, successors and assigns, will make such further assurances to perfect the fee simple title to said land in said Mortgagee, his heirs, legal representatives, successors and assigns, as may reasonably be required: and that said Mortgagor does hereby fully warrant the title to said land and every part thereof and will defend the same against the lawful claims of all persons whomever.

Provided always, that the said Mortgagor shall pay unto the said Mortgagee the certain promissory note, of which the following in words and figures is a true copy, to-wit:

See attachment "A"

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and shall duly, promptly and fully perform, discharge, execute, effect, complete, comply with and abide by each and every the stipulations, agreements, conditions and covenants of said promissory note and of this mortgage, then this mortgage and the estate hereby created shall cease and be null and void.

It is understood that each of the words, "note", "mortgagor" and "mortgagee" respectively and the pronouns referring thereto, whether in the singular or plural anywhere in this mortgage, shall be singular if one only and shall be plural jointly and severally, if more than one, and shall be masculine, feminine and/or neuter, wherever the context so implies or admits.

And the said Mortgagor for himself and his heirs, legal representatives, successors and assigns, hereby covenants and agrees to and with said Mortgagee, his legal representatives, successors and assigns:

1. **PAYMENT OF PRINCIPAL AND INTEREST.** To pay all and singular the principal and interest and the various and sundry sums of money payable by virtue of said promissory note, and this mortgage, each and every, promptly on the days respectively the same severally become due.
2. **FUNDS FOR TAXES AND INSURANCE.** To pay all and singular the taxes, assessments, levies, liabilities, obligations and incumbrances of every nature and kind now on said described property, and/or that hereafter may be imposed, suffered, placed, levied or assessed thereupon, and/or that hereafter may be levied or assessed upon this mortgage and/or the indebtedness secured hereby, each and every, when due and payable according to law, before they become delinquent, and before any interest attaches or any penalty is incurred; and in so far as any thereof is of record the same shall be promptly satisfied and discharged of record and the original official document (such as, for instance, the tax receipt or the satisfaction paper officially endorsed or certified) shall be placed in the hands of said Mortgagee within ten days next after payment; and in the event that any thereof is not so paid, satisfied and discharged, said Mortgagee may at any time pay the same or any part thereof without waiving or affecting any option, lien, equity or right under or by virtue of this mortgage, and the full amount of each and every such payment shall be immediately due and payable and shall bear interest from the date thereof until paid at the rate of 10.000% per annum and together with such interest shall be secured by the lien of this mortgage.
3. **HAZARD INSURANCE.** To place and continuously keep on the buildings now or hereafter situate on said land fire and windstorm insurance in the usual standard policy form, in a sum not less than highest insurable value, in such company or companies as may be approved by said Mortgagee; and all such insurance policies on any of said buildings, any interest therein or part thereof, in the aggregate sum aforesaid or in excess thereof, shall

contain the usual standard mortgage clause making the loss under said policies, each and every, payable to said Mortgagee as his interest may appear, and each and every such policy shall be promptly delivered to and held by said Mortgagee; and, not less than ten days in advance of the expiration of each policy, to deliver to said Mortgagee a renewal thereof, together with a receipt for the premium of such renewal; and there shall be no such insurance placed on any of said buildings, any interest therein or part thereof, unless in the form and with the loss payable as aforesaid; and in the event any sum of money becomes payable under such policy or policies said Mortgagee shall have the option to receive and apply the same on account of the indebtedness secured hereby or to permit said Mortgagor to receive and use it or any part thereof for other purposes without thereby waiving or impairing any equity, lien or right under or by virtue of this mortgage; and in the event said Mortgagor shall for any reason fail to keep the said premises so insured, or fail to deliver promptly any of said policies of insurance to said Mortgagee, or fail promptly to pay fully any premium therefor, or in any respect fail to perform, discharge, execute, effect, complete, comply with and abide by this covenant, or any part hereof, said Mortgagee may place and pay for such insurance or any part thereof without waiving or affecting any option, lien, equity or right under or by virtue of this mortgage, and the full amount of each and every such payment shall be immediately due and payable and shall bear interest from the date thereof until paid at the rate of 10.000% per annum and together with such interest shall be secured by the lien of this mortgage.

4. **PRESERVATION AND MAINTENANCE.** To permit, commit or suffer no waste, impairment or deterioration of said property or any part thereof.
5. **CHARGES.** To pay all and singular the costs, charges and expenses, including reasonable lawyer's fees and cost of abstracts of title, incurred or paid at any time by said Mortgagee because and/or in the event of the failure on the part of the said Mortgagor to duly, promptly and fully perform, discharge, execute, effect, complete, comply with and abide by each and every the stipulations, agreements, conditions and covenants of said promissory note, and this mortgage, any or either, and said costs, charges and expenses, each and every, shall be immediately due and payable, whether or not there by notice, demand, attempt to collect or suit pending; and the full amount of each and every such payment shall bear interest from the date thereof until paid at the rate of 10.000% per annum; and all said costs, charges and expenses so incurred or paid, together with such interest, shall be secured by the lien of this mortgage.
6. **DEFAULT.** That (a) in the event of any breach of this mortgage or default on the part of the Mortgagor, or (b) in the event any of said sums of money herein referred to be not promptly and fully paid within thirty days next after the same severally become due and payable, without demand or notice, or (c) in the event each and every the stipulations, agreements, conditions and covenants of said promissory note and this mortgage, any any or either, are not duly, promptly and fully performed, discharged, executed, effected, completed, complied with and abided by, then, in either or any such event.

not duly, promptly and fully performed, discharged, executed, effected, completed, complied with and abided by, then, in either or any such event, the said aggregate sum mentioned in said promissory note then remaining unpaid, with interest accrued, and all moneys secured hereby, shall become due and payable forthwith, or thereafter, at the option of said Mortgagee, as fully and completely as if all of the said sums of money were originally stipulated to be paid on such day, anything in said promissory note, and/or in this mortgage to the contrary notwithstanding; and thereupon or thereafter at the option of said Mortgagee, without notice or demand, suit at law or in equity, theretofore, or thereafter begun, may be prosecuted as if all moneys secured hereby had matured prior to its institution.

7. **APPOINTMENT OF RECEIVER.** That in the event that at the beginning of or at any time pending any suit upon this mortgage, or to foreclose it, or to reform it, and/or to enforce payment of any claims hereunder, said Mortgagee shall apply to the court having jurisdiction thereof for the appointment of a Receiver, such court shall forthwith appoint a Receiver of said mortgaged property all and singular, including all and singular the rents, income, profits, issues and revenues from whatever source derived, each and every of which, it being expressly understood, is hereby mortgaged as if specifically set forth and described in the granting and habendum clauses hereof, and such Receiver shall have all the broad and effective functions and powers in anywise entrusted by a court to a Receiver, and such appointment shall be made by such court as an admitted equity and a matter of absolute right to said Mortgagee, and without reference to the adequacy or inadequacy of the value of the property mortgaged or to the solvency or insolvency of said Mortgagor and/or of the defendants, and that such rents, profits, income, issues and revenues shall be applied by such Receiver according to the lien and/or equity of said Mortgagee and the practice of such court.
8. **PERFORMANCE.** To duly, promptly and fully perform, discharge, execute, effect, complete, comply with and abide by each and every the stipulations, agreement, conditions and covenants in said promissory note and in this mortgage set forth.
9. **CONSOLIDATED MORTGAGE.** This mortgage is subject and subordinate to the consolidated mortgage, dated 9/15/00, made between Deborah Dean Carruthers as mortgagor, and PHH 4001 Leadenhall Rd. Mt Laurel N.J. 08054 as mortgagee, and constituting a prior mortgage lien on the premises, the legal description of which has been described on page 1. The said consolidated mortgage is now in the reduced principal amount of \$121,000.00, with the interest from 9/15/00, and by its terms, the said consolidated mortgage matures on 12/01/30.
(The said consolidated mortgage is hereinafter referred to in this instrument as the "First Mortgage".)

10. **WRAP PAYMENTS.** Mortgagee shall pay to the holder of the First Mortgage the sum of **\$123,500.00** being the unpaid balance of said mortgage, **56185** together with all interest thereon accruing thereunder from **July 12, 2003**, when as required by the terms and provisions of said First Mortgage until paid in full.

11. **WRAP MORTGAGE INDEBTEDNESS.** As to the principal indebtedness of mortgagor to mortgagee in the sum of **\$123,500.00** and mortgagor and mortgagee hereby agree that the balance of said principal indebtedness totaling the sum of **\$123,500.00** has been validly incurred by mortgagee hereby agreeing to retain the said balance and pay, as set forth above, to the holder of the First Mortgage the sum of **\$121,000.00**, being the principal balance remaining unpaid under said First Mortgage.

12. **WRAP MORTGAGE TERMS.** Mortgagor agrees to comply with all of the terms, provisions, and conditions of the First Mortgage other than those applicable to the payment of principal and interest due under said First Mortgage. In case mortgagor fails to comply with each and every one of the terms, provisions and conditions of the said First Mortgage or is in default under said First Mortgage, other than in respect to payments of principal and interest under said First Mortgage after **July 12, 2003**, said failure to comply or default on Mortgagor's part shall constitute a default under this mortgage and shall entitle mortgagee, at mortgagee's option, to exercise any and all of its rights and remains in case of a default under this mortgage.

13. **EXPENSES.** The mortgagor or any owner of the premises when requested by the Title Company and/or the attorneys representing the holder of the First Mortgage shall pay any and all expenses, including but not limited to, title company changes, recording and filing fees, legal fees of the attorneys for the holder of the First Mortgage in preparation of an assignment of either mortgage and any tax, if any, that may be hereafter imposed by any taxing authority in connection with the compliance with the provisions hereof dealing with the payments made or to be made to the holders of the First Mortgage.

Mortgagee agrees to make all such payments as aforesaid before the expiration of the applicable grace periods provided in the said First Mortgage for such payments.

Mortgagee's duty and responsibility to make the respective payments of principal and interest when and as due under the said First Mortgage is, despite the foregoing, subject to the following conditions: (1) the mortgagor shall not be in default under the terms and provisions of this mortgage and (2) the mortgagor shall comply in all respects with each and every one of the terms, provisions and conditions of the First Mortgage other than those which apply to the payments of principal and interest due under the said First Mortgage after the **July 12, 2003**.

Mortgagee does not assume any of mortgagor's duties and obligations under the said First Mortgage except as hereinbefore provided as to payments of principal and interest due thereunder after the July 12, 2003.

- 14. OTHER PAYMENTS.** Mortgagor shall pay to mortgagee any amounts required to be paid to the holder of the First Mortgage (other than payments of principal and interest under said First Mortgage) at least ten days before the last day under each of said mortgages that such payments may be made without constituting a default thereunder and mortgagee agrees promptly to remit such sums so paid to mortgagee by mortgagor to the holder of the First Mortgage in payment of such sums due under said First Mortgage.
- 15. ADVANCE OF FUNDS.** The mortgagor shall, in the event that the mortgagee shall default in making any required payment of principal and/or interest under the First Mortgage, have the right to advance the funds necessary to cure such default and all funds so advanced by mortgagor together with interest thereon at the rate of 10.000% per year shall be credited against the next installment(s) of interest and principal due under the note secured by this mortgage.
- 16. ESCROW PAYMENTS.** Mortgagor shall be responsible for any and all escrow payments required to pay for taxes, insurance, waste fees, etc.
- 17. EXECUTION OF DOCUMENTS.** Mortgagor covenants and agrees that if and when requested by the mortgagee and/or the Title Company, at the time when the mortgagee acquires the First Mortgage, the owner of the premises will execute such documents as mortgagee or the holder of this mortgage or the note secured hereby may require to evidence the unpaid balance owing to mortgagee or said holder of this mortgage and said note. Mortgagor's failure to furnish such statement within thirty days of the request therefor shall be deemed an acknowledgment by mortgagor that, to mortgagor's best information and belief, no offsets or defenses exist against mortgagor's indebtedness under the note secured hereby and that all regular installment payments thereon and no other have been made.
- 18. NOTICES.** Mortgagor and mortgagee agree promptly to send to each other copies of any notices received by them from the holder of the First Mortgage. Mortgagee further agrees to send to mortgagor, at the time mortgagee makes each payment provided herein to be made by mortgagee to such holder of the said First Mortgage a written statement showing that each such payment has been made. A copy of Mortgagee's transmittal letter and or check will constitute sufficient written statement in this regard.
- 19. NOTICE OF DEFAULT.** Mortgagor shall promptly furnish to mortgagee copies of all notices of default given to the mortgagor by the holder of the First Mortgage or given to or received from the tenants of the premises or any part or parts thereof by the mortgagor, based on the occurrence or

alleged occurrence of any default or defaults in the performance of leases of space tenants occupying any portion of the premises.

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20. DEPOSIT. Interest shall not, despite any provision to the contrary contained herein, be payable by the mortgagee on any sums deposited with and/or held in trust by the mortgagee pursuant to any provision of this mortgage.

IN WITNESS WHEREOF, the Mortgagor has executed this mortgage on the day and year first above written.

 Witnesses

Zarada L Andrade
 Mortgagee

 Witnesses

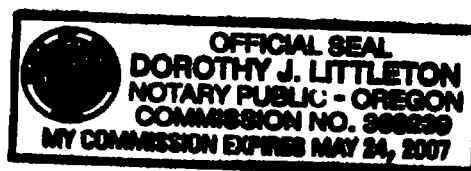
Deborah Carruthers
 Mortgagor

STATE OF OREGON COUNTY OF KLAMATH

THE FOREGOING instrument was acknowledged before me this 12th day of JULY, 2003, by ZARADA L. ANDRADE AND DEBORAH CARRUTHERS.

Dorothy J. Littleton
 Notary Public

My Commission Expires: 5-24-07



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