

NTC 81065

**RECORDATION REQUESTED BY:**

SCOTT VALLEY BANK  
MEDFORD LOAN CENTER  
The Estate Building, Suite 26  
10 Crater Lake Avenue  
Medford, OR 97504

2007-020093

Klamath County, Oregon



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11/29/2007 03:41:04 PM

Fee: \$41.00

**WHEN RECORDED MAIL TO:**

SCOTT VALLEY BANK  
LOAN SERVICES DEPARTMENT  
P.O. BOX 69  
YREKA, CA 96097

**SEND TAX NOTICES TO:**

V S, INC.  
4150 S. PACIFIC HWY, SUITE B  
MEDFORD, OR 97501

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE ONLY

**NOTICE: THIS SUBORDINATION OF DEED OF TRUST RESULTS IN YOUR SECURITY INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT.**

**SUBORDINATION OF DEED OF TRUST**

**THIS SUBORDINATION OF DEED OF TRUST** dated November 26, 2007, is made and executed among **SCOTT VALLEY BANK, A CALIFORNIA BANKING CORPORATION ("Beneficiary"); AMERITITLE CO. ("Trustee"); V S, INC. ("Borrower");** and **SCOTT VALLEY BANK ("Lender").**

**SUBORDINATED INDEBTEDNESS.** Beneficiary has extended the following described financial accommodations, secured by the Real Property (the "Subordinated Indebtedness"):

**PROMISSORY NOTE DATED JULY 11, 2007, IN THE ORIGINAL PRINCIPAL AMOUNT OF \$1,228,000.00.**

**SUBORDINATED DEED OF TRUST.** The Subordinated Indebtedness is or will be secured by the Real Property and evidenced by a deed of trust dated July 11, 2007 from V S, INC. ("Trustor") to AMERITITLE CO. ("Trustee") in favor of SCOTT VALLEY BANK, A CALIFORNIA BANKING CORPORATION ("Beneficiary") (the "Subordinated Deed of Trust") and recorded in KLAMATH County, State of Oregon as follows:

**JULY 17, 2007 AS DOCUMENT #2007-012623 .**

**REAL PROPERTY DESCRIPTION.** The Subordinated Deed of Trust covers the following described real property (the "Real Property") located in KLAMATH County, State of Oregon:

See EXHIBIT "A", which is attached to this Subordination and made a part of this Subordination as if fully set forth herein.

The Real Property or its address is commonly known as 3040 WASHBURN WAY, KLAMATH FALLS, OR 97603. The Real Property tax identification number is 3909-009AA-00900-000.

**SUPERIOR INDEBTEDNESS.** Lender has extended or has agreed to extend the following described financial accommodations to Borrower, secured by the Real Property (the "Superior Indebtedness"):

**PROMISSORY NOTE DATED NOVEMBER 26, 2007, IN THE ORIGINAL PRINCIPAL AMOUNT OF \$1,043,000.00.**

**LENDER'S LIEN.** The Superior Indebtedness is or will be secured by the Real Property and evidenced by a mortgage, deed of trust, or other lien instrument, dated November 26, 2007, from Borrower to Lender (the "Lender's Lien"). As a condition to the granting of the requested financial accommodations, Lender has required that the Lender's Lien be and remain superior to the Subordinated Deed of Trust.

**REQUESTED FINANCIAL ACCOMMODATIONS.** Beneficiary, who may or may not be the same person or entity as Trustor, and Borrower each want Lender to provide financial accommodations to Borrower in the form of the Superior Indebtedness. Borrower and Beneficiary each represent and acknowledge to Lender that Beneficiary will benefit as a result of these financial accommodations from Lender to Borrower, and Beneficiary acknowledges receipt of valuable consideration for entering into this Subordination.

**NOW THEREFORE THE PARTIES TO THIS SUBORDINATION HEREBY AGREE AS FOLLOWS:**

**SUBORDINATION.** The Subordinated Deed of Trust and the Subordinated Indebtedness secured by the Subordinated Deed of Trust is and shall be subordinated in all respects to Lender's Lien and the Superior Indebtedness, and it is agreed that Lender's Lien shall be and remain, at all times, prior and superior to the lien of the Subordinated Deed of Trust. Beneficiary also subordinates to Lender's Lien all other Security Interests in the Real Property held by Beneficiary, whether now existing or hereafter acquired. The words "Security Interest" mean and include without limitation any type of collateral security, whether in the form of a lien, charge, mortgage, deed of trust, assignment, pledge, chattel mortgage, chattel trust, factor's lien, equipment trust, conditional sale, trust receipt, lien or title retention contract, lease or consignment intended as a security device, or any other security or lien interest whatsoever, whether created by law, contract, or otherwise.

**BENEFICIARY'S REPRESENTATIONS AND WARRANTIES.** Beneficiary represents and warrants to Lender that: (A) no representations or agreements of any kind have been made to Beneficiary which would limit or qualify in any way the terms of this Subordination; (B) this Subordination is executed at Borrower's request and not at the request of Lender; (C) Lender has made no representation to Beneficiary as to the creditworthiness of Borrower; and (D) Beneficiary has established adequate means of obtaining from Borrower on a continuing basis information regarding Borrower's financial condition. Beneficiary agrees to keep adequately informed from such means of any facts, events, or circumstances which might in any way affect Beneficiary's risks under this Subordination, and Beneficiary further agrees that Lender shall have no obligation to disclose to Beneficiary information or material acquired by Lender in the course of its relationship with Beneficiary.

**BENEFICIARY WAIVERS.** Beneficiary waives any right to require Lender: (A) to make, extend, renew, or modify any loan to Borrower or to grant any

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## SUBORDINATION OF DEED OF TRUST (Continued)

Loan No: 8332606002

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other financial accommodations to Borrower whatsoever; (B) to make any presentment, protest, demand, or notice of any kind, including notice of any nonpayment of any Superior Indebtedness secured by Lender's Lien, or notice of any action or nonaction on the part of Borrower, Lender, any surety, endorser, or other guarantor in connection with the Superior Indebtedness, or in connection with the creation of new or additional indebtedness; (C) to resort for payment or to proceed directly or at once against any person, including Borrower; (D) to proceed directly against or exhaust any collateral held by Lender from Borrower, any other guarantor, or any other person; (E) to give notice of the terms, time, and place of any public or private sale of personal property security held by Lender from Borrower or to comply with any other applicable provisions of the Uniform Commercial Code; (F) to pursue any other remedy within Lender's power; or (G) to commit any act or omission of any kind, at any time, with respect to any matter whatsoever.

**LENDER'S RIGHTS.** Lender may take or omit any and all actions with respect to Lender's Lien without affecting whatsoever any of Lender's rights under this Subordination. In particular, without limitation, Lender may, without notice of any kind to Beneficiary, (A) make one or more additional secured or unsecured loans to Borrower; (B) repeatedly alter, compromise, renew, extend, accelerate, or otherwise change the time for payment or other terms of the Superior Indebtedness or any part of it, including increases and decreases of the rate of interest on the Superior Indebtedness; extensions may be repeated and may be for longer than the original loan term; (C) take and hold collateral for the payment of the Superior Indebtedness, and exchange, enforce, waive, and release any such collateral, with or without the substitution of new collateral; (D) release, substitute, agree not to sue, or deal with any one or more of Borrower's sureties, endorsers, or guarantors on any terms or manner Lender chooses; (E) determine how, when and what application of payments and credits, shall be made on the Superior Indebtedness; (F) apply such security and direct the order or manner of sale of the security, as Lender in its discretion may determine; and (G) transfer this Subordination to another party.

**DEFAULT BY BORROWER.** If Borrower becomes insolvent or bankrupt, this Subordination shall remain in full force and effect. In the event of a corporate reorganization or corporate arrangement of Borrower under the provisions of the Bankruptcy Code, as amended, this Subordination shall remain in full force and effect and the court having jurisdiction over the reorganization or arrangement is hereby authorized to preserve such priority and subordination provided under this Subordination in approving any such plan of reorganization or arrangement. Any default by Borrower under the terms of the Subordinated Indebtedness also shall constitute an event of default under the terms of the Superior Indebtedness in favor of Lender.

**MISCELLANEOUS PROVISIONS.** The following miscellaneous provisions are a part of this Subordination:

**Amendments.** This Subordination constitutes the entire understanding and agreement of the parties as to the matters set forth in this Subordination. No alteration of or amendment to this Subordination shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

**Arbitration.** Borrower and Beneficiary and Lender agree that all disputes, claims and controversies between them whether individual, joint, or class in nature, arising from this Subordination or otherwise, including without limitation contract and tort disputes, shall be arbitrated pursuant to the Rules of the American Arbitration Association in effect at the time the claim is filed, upon request of either party. No act to take or dispose of any Property shall constitute a waiver of this arbitration agreement or be prohibited by this arbitration agreement. This includes, without limitation, obtaining injunctive relief or a temporary restraining order; foreclosing by notice and sale under any deed of trust or mortgage; obtaining a writ of attachment or imposition of a receiver; or exercising any rights relating to personal property, including taking or disposing of such property with or without judicial process pursuant to Article 9 of the Uniform Commercial Code. Any disputes, claims, or controversies concerning the lawfulness or reasonableness of any act, or exercise of any right, concerning any Property, including any claim to rescind, reform, or otherwise modify any agreement relating to the Property, shall also be arbitrated, provided however that no arbitrator shall have the right or the power to enjoin or restrain any act of any party. Judgment upon any award rendered by any arbitrator may be entered in any court having jurisdiction. Nothing in this Subordination shall preclude any party from seeking equitable relief from a court of competent jurisdiction. The statute of limitations, estoppel, waiver, laches, and similar doctrines which would otherwise be applicable in an action brought by a party shall be applicable in any arbitration proceeding, and the commencement of an arbitration proceeding shall be deemed the commencement of an action for these purposes. The Federal Arbitration Act shall apply to the construction, interpretation, and enforcement of this arbitration provision.

**Attorneys' Fees; Expenses.** If Lender institutes any suit or action to enforce any of the terms of this Subordination, Lender shall be entitled to recover such sum as the court may adjudge reasonable as attorneys' fees at trial and upon any appeal. Whether or not any court action is involved, and to the extent not prohibited by law, all reasonable expenses Lender incurs that in Lender's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the Indebtedness payable on demand and shall bear interest at the Note rate from the date of the expenditure until repaid. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's attorneys' fees and Lender's legal expenses, whether or not there is a lawsuit, including attorneys' fees and expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyors' reports, and appraisal fees, title insurance, and fees for the Trustee, to the extent permitted by applicable law. Beneficiary also will pay any court costs, in addition to all other sums provided by law.

**Authority.** The person who signs this Subordination as or on behalf of Beneficiary represents and warrants that he or she has authority to execute this Subordination and to subordinate the Subordinated Indebtedness and the Beneficiary's security interests in Beneficiary's property, if any.

**Caption Headings.** Caption headings in this Subordination are for convenience purposes only and are not to be used to interpret or define the provisions of this Subordination.

**Governing Law.** This Subordination will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of Oregon without regard to its conflicts of law provisions. This Subordination has been accepted by Lender in the State of Oregon.

**Choice of Venue.** If there is a lawsuit, Beneficiary agrees upon Lender's request to submit to the jurisdiction of the courts of Jackson County, State of Oregon.

**Successors.** This Subordination shall extend to and bind the respective heirs, personal representatives, successors and assigns of the parties to this Subordination, and the covenants of Beneficiary herein in favor of Lender shall extend to, include, and be enforceable by any transferee or endorsee to whom Lender may transfer any or all of the Superior Indebtedness.

**No Waiver by Lender.** Lender shall not be deemed to have waived any rights under this Subordination unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Subordination shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Subordination. No prior waiver by Lender, nor any course of dealing between Lender and Beneficiary, shall constitute a waiver of any of Lender's rights or of any of Beneficiary's obligations as to any future transactions. Whenever the consent of Lender is required under this Subordination, the granting of such consent by Lender in any instance shall not constitute continuing

SUBORDINATION OF DEED OF TRUST  
(Continued)

Loan No: 8332606002

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consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

NOTICE: THIS SUBORDINATION AGREEMENT CONTAINS A PROVISION WHICH ALLOWS THE PERSON OBLIGATED ON YOUR REAL PROPERTY SECURITY TO OBTAIN A LOAN, A PORTION OF WHICH MAY BE EXPENDED FOR OTHER PURPOSES THAN IMPROVEMENT OF THE LAND.

EACH PARTY TO THIS SUBORDINATION ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS SUBORDINATION, AND EACH PARTY AGREES TO ITS TERMS. THIS SUBORDINATION IS DATED NOVEMBER 26, 2007.

BORROWER:

V S, INC.

By: [Signature]  
VINOD MEHTA, President of V S, INC.

By: [Signature]  
SEEMA MEHTA, Secretary of V S, INC.

BENEFICIARY:

SCOTT VALLEY BANK, A CALIFORNIA BANKING CORPORATION

By: [Signature]  
Authorized Signer for SCOTT VALLEY BANK, A CALIFORNIA BANKING CORPORATION

By: [Signature]  
Authorized Signer for SCOTT VALLEY BANK, A CALIFORNIA BANKING CORPORATION

TRUSTEE:

AMERITITLE CO.

By: [Signature]  
Authorized Signer for AMERITITLE CO.

By: [Signature]  
Authorized Signer for AMERITITLE CO.

LENDER:

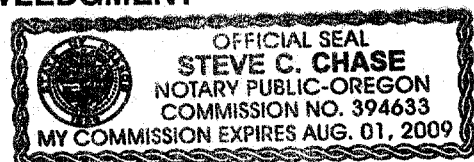
SCOTT VALLEY BANK

X [Signature]  
Authorized Officer

CORPORATE ACKNOWLEDGMENT

STATE OF Oregon  
COUNTY OF Jackson

)  
) SS  
)



On this 28 day of November, 20 07, before me, the undersigned Notary Public, personally appeared VINOD MEHTA, President of V S, INC. and SEEMA MEHTA, Secretary of V S, INC., and known to me to be authorized agents of the corporation that executed the Subordination of Deed of Trust and acknowledged the Subordination to be the free and voluntary act and deed of the corporation, by authority of its Bylaws or by resolution of its board of directors, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute this Subordination and in fact executed the Subordination on behalf of the corporation.

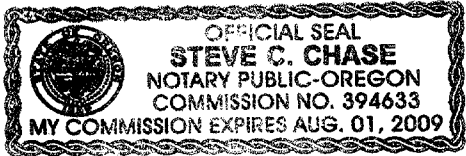
By: [Signature]  
Notary Public in and for the State of Oregon

Residing at Medford, Oregon  
My commission expires 8/1/09

SUBORDINATION OF DEED OF TRUST  
(Continued)

CORPORATE ACKNOWLEDGMENT

STATE OF Oregon )  
 ) SS  
COUNTY OF Jackson )



On this 29 day of November, 2007, before me, the undersigned Notary Public, personally appeared Michael W. Bingham, Vice President of Scott Valley Bank and known to me to be (an) authorized agent(s) of the corporation that executed the Subordination of Deed of Trust and acknowledged the Subordination to be the free and voluntary act and deed of the corporation, by authority of its Bylaws or by resolution of its board of directors, for the uses and purposes therein mentioned, and on oath stated that he or she/they is/are authorized to execute this Subordination and in fact executed the Subordination on behalf of the corporation.

By Steve C. Chase Residing at Medford Oregon  
Notary Public in and for the State of Oregon My commission expires 8/1/09

CORPORATE ACKNOWLEDGMENT

STATE OF \_\_\_\_\_ )  
 ) SS  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned Notary Public, personally appeared \_\_\_\_\_ and known to me to be the \_\_\_\_\_, authorized agent for SCOTT VALLEY BANK that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of SCOTT VALLEY BANK, duly authorized by SCOTT VALLEY BANK through its board of directors or otherwise, for the uses and purposes therein mentioned, and on oath stated that he or she is authorized to execute this said instrument and in fact executed this said instrument on behalf of SCOTT VALLEY BANK.

By \_\_\_\_\_ Residing at \_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_ My commission expires \_\_\_\_\_

LENDER ACKNOWLEDGMENT

STATE OF \_\_\_\_\_ )  
 ) SS  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned Notary Public, personally appeared \_\_\_\_\_ and known to me to be the \_\_\_\_\_, authorized agent for SCOTT VALLEY BANK that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of SCOTT VALLEY BANK, duly authorized by SCOTT VALLEY BANK through its board of directors or otherwise, for the uses and purposes therein mentioned, and on oath stated that he or she is authorized to execute this said instrument and in fact executed this said instrument on behalf of SCOTT VALLEY BANK.

By \_\_\_\_\_ Residing at \_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_ My commission expires \_\_\_\_\_

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

**PARCEL 1**

Lot 4 in Block 1 of TRACT 1239, RE-SUBDIVISION OF LOT 5, BLOCK 1, WASHBURN PARK, TRACT 1080, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

**PARCEL 2**

Parcel 2 of Land Partition 7-94 located in TRACT 1239, RE-SUBDIVISION OF LOT 5, BLOCK 1, WASHBURN PARK, TRACT 1080, situated in the NE  $\frac{1}{4}$  NE  $\frac{1}{4}$  of Section 9, Township 39 South, Range 9 East of the Willamette Meridian, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

**PARCEL 3**

Lot 1 in Block 1 of TRACT 1239, RE-SUBDIVISION OF LOT 5, BLOCK 1, WASHBURN PARK, TRACT 1080, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.