



2014-002755

Klamath County, Oregon

03/31/2014 11:24:37 AM

Fee: \$232.00

Grantor: Washburn Way Industrial Park LLC
Beneficiary: First Republic Bank
Trustee: Fidelity National Title Insurance Company

Recording Requested by and when Recorded
Return to:

First Republic Bank
111 Pine Street
San Francisco, CA 94111
Attn: Loan Review
Loan No. 27-518087-2

The assessor's real property tax account number for the
Property is 540098 and 540070

DEED OF TRUST, SECURITY AGREEMENT AND FIXTURE FILING

THIS DEED OF TRUST is dated as of **March 19, 2014**, and is granted by Washburn Way Industrial Park LLC, an Oregon limited liability company ("Grantor"), to Fidelity National Title Insurance Company, a Oregon corporation ("Trustee"), for the benefit and security of **First Republic Bank**, its successors and assigns ("Beneficiary").

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which is hereby acknowledged, Grantor hereby irrevocably grants, transfers, conveys and assigns to Trustee, IN TRUST, WITH POWER OF SALE, for the benefit and security of Beneficiary, under and subject to the terms and conditions hereinafter set forth, that certain parcel of real property, located in the County of **KLAMATH**, State of **OR**, more particularly described in Schedule "1" hereto (the "Real Property"); together with:

- (a) all interests, estates or other claims, both in law and in equity, which Grantor now has or may hereafter acquire in the Real Property;
- (b) all easements, rights-of-way and rights used in connection with the Real Property, or as a means of access thereto; all tenements, hereditaments and appurtenances of and to the Real Property; all minerals, oil and gas and other hydrocarbon substances in or on the Real Property; and all water, irrigation and drainage rights appurtenant to the Real Property of every kind and character, however manifested or evidenced;
- (c) all right and interest of Grantor, now owned or hereafter acquired, in and to any land lying within the right-of-way of any street, open or proposed, adjoining the Real Property, and any and all sidewalks, alleys and strips and gores of land adjacent to or used in connection with the Real Property;
- (d) any and all buildings and improvements now or hereafter erected on the Real Property, including, but not limited to, the fixtures, attachments, appliances, equipment, machinery and other articles attached to such buildings and improvements, including replacements and additions thereto (collectively, the "Improvements"); and
- (e) all of the estate, interest, right, title, other claim or demand including (but not limited to) claims or demands with respect to the proceeds of insurance in effect with respect thereto, which Grantor now has or may hereafter acquire in the Real Property, and any and all compensation, awards or payments made for the taking by eminent domain, or by any proceeding or purchase in lieu thereof, of the whole or any part of the Real Property, the Improvements, or any of the other rights, interests, property and other items mentioned in paragraphs (a) through (d) above (which, together with the Real Property and the Improvements, are sometimes hereinafter referred to collectively as the "Property") including (but not limited to) any awards resulting from a change of grade of streets and awards for severance damages;

ALL FOR THE PURPOSE OF SECURING:

832.00 AMT

Chicago Title 472514514445JL-50-CON

(i) payment of all amounts due under that certain Promissory Note, of even date herewith (the "Note"), in the original principal amount of **Nine Hundred Fifty Thousand and 00/100 Dollars (\$950,000.00)**, which was executed and delivered by Grantor, made payable to Beneficiary, or order, and all modifications, renewals or replacements of the Note. The maturity date of the Note is

(ii) performance by Grantor of all of its obligations under any and all other present/or future documents or agreements entered into by and between Grantor and Beneficiary relating to the loan evidenced by the Note (the "Loan") (hereinafter, this Deed of Trust, the Note, the Security Agreement, as defined below, that certain Assignment of Leases, of even date herewith, executed by Grantor in favor of Beneficiary and all other present or future documents between Grantor and Beneficiary relating to the Loan are collectively referred to as the "Loan Documents").

(iii) payment of all sums advanced by Beneficiary to protect the Property or the security of this Deed of Trust, or paid out pursuant to any provision of this Deed of Trust or any other Loan Documents, with interest thereon at the "Note Rate" or "Default Rate," as set forth in the Note, as applicable, (hereinafter referred to as the "Loan Rate").

(iv) the payment of the principal and interest on all future loans or advances made by Beneficiary to Grantor, or any successor-in-interest to Grantor as the owner of all or any part of the Property, whenever the promissory note evidencing such future loan or advance specifically states that it is secured by this Deed of Trust (collectively, "Future Advances"), including all extensions, renewals and modifications of any Future Advances. Pursuant to the terms of that certain Security Agreement, of even date herewith (the "Security Agreement"), which was entered into by and between Grantor, as the debtor, and Beneficiary, as the secured party: Grantor has also granted to Beneficiary a security interest in all that property of Grantor which is more particularly described on Schedule "2" hereto. Capitalized terms used in such schedule which are not defined in this Deed of Trust (such as the terms "Debtor," the "Security Interest," or the "Collateral") shall have the meanings ascribed to those terms in the Security Agreement. Some or all of the property described on such Schedule "2" may now be or may become in future a fixture, within the meaning of that term set forth in the Oregon Commercial Code (the "Code"). All such property which now is or hereafter becomes such a fixture is referred to hereinafter collectively as the "Fixtures." This Deed of Trust is being placed on record, in the county in which the Real Property is located, in part in order to perfect the security interest in the Fixtures which is granted to Beneficiary under the Security Agreement, and this Deed of Trust shall constitute a "Fixture Filing" under the Code for such purposes. Nothing in this Deed of Trust shall be deemed, however, to create or perfect any lien or interest in favor of Trustee or Beneficiary under this Deed of Trust in any of the property described on such Schedule "2" which is not a Fixture. The rights, remedies and interests of Beneficiary under this Deed of Trust and under the Security Agreement are independent and cumulative. There shall be no merger of any lien created by this Deed of Trust with any security interest created by the Security Agreement, and Beneficiary may elect to exercise or enforce any of its rights, remedies or interests under either or both this Deed of Trust or the Security Agreement as Beneficiary may from time to time deem appropriate.

TO PROTECT THE SECURITY CREATED BY THIS DEED OF TRUST, GRANTOR HEREBY COVENANTS AND AGREES TO AND WITH TRUSTEE AND BENEFICIARY AS FOLLOWS:

1. **Payment of Secured Obligations.** Grantor shall pay when due the principal of, and the interest on, the indebtedness evidenced by the Note, together with all charges, fees and other sums due under the Loan Documents, and the principal of, and interest on, any Future Advances secured by this Deed of Trust.

2. **Maintenance, Repair, Alterations.** Grantor shall keep the Property in good condition and repair; shall not remove, demolish or substantially alter (except for such alterations as may be required by law, ordinances or regulations) any of the Improvements; shall complete promptly and in good and workmanlike manner any building or other Improvement which may be constructed on the Real Property, promptly restore in like manner any Improvement which may be damaged or destroyed thereon, and pay when due all claims for labor performed and materials furnished therefore; shall comply with all laws, ordinances, regulations, covenants, conditions and restrictions now or hereafter affecting the Property, or any part thereof, or requiring any alterations or improvements

thereto; shall not commit or permit any waste or deterioration of the Property; shall keep and maintain grounds, sidewalks, roads, parking and landscape areas on or abutting the property in good and neat order and repair; and shall not commit, suffer or permit any act to be done in or upon the Property in violation of any law, ordinance or regulation.

3. Required Insurance. Grantor shall provide, maintain and keep in force at all times the following policies of insurance:

(a) term insurance policy against loss or damage to the Improvements, furnishings, fixtures, machinery, materials and equipment located at the Improvements by fire, lightning, windstorm, earthquake (if required by Lender and in an amount and with a deductible satisfactory to Lender), vandalism, malicious mischief, flood (if the Property is in an area designated as subject to danger of flood) and any of the risks covered by insurance of the type now known as "broad form" or "all-risk insurance," in an amount equal to the full insurable value of the Improvements containing a "replacement cost endorsement" and a loss payee endorsement;

(b) if requested by Beneficiary, "business interruption" insurance and/or loss of "rental value" insurance with respect to the Property, in such amounts as are satisfactory to Beneficiary;

(c) comprehensive public liability insurance, with an endorsement naming Beneficiary as an additional insured (which endorsement shall not be cancelable except on thirty (30) days prior written notice to Beneficiary), including coverage for elevators and escalators, if any, on the Property, insuring against claims for personal injury or property damage, including (but not limited to) bodily injury, death or property damage occurring on, in or about the Property and the adjoining streets sidewalks and passageways, with a single limit of coverage not less than **One Million Dollars (\$1,000,000)** per occurrence and in the aggregate of not less than **Two Million Dollars (\$2,000,000)** total coverage;

(d) during the course of any construction or repair of Improvements on the Real Property, workmen's compensation insurance (including employer's liability insurance, if requested by Beneficiary) for all employees of Grantor engaged on or with respect to the Property, in such amount as is reasonably satisfactory to Beneficiary, or, if such limits are established by law, in the amounts so established;

(e) during the course of any construction or repair of Improvements on the Real Property, builder's "completed value" insurance against "all risks of physical loss," including collapse and transit coverage, in nonreporting form, covering the total value of work performed and equipment, supplies and materials furnished, containing the "permission to occupy upon completion of work or occupancy" endorsement, and covering Beneficiary's interest in the Property, as it may appear;

(f) boiler and machinery insurance covering pressure vessels, air tanks, boilers, machinery, pressure piping, heating, air conditioning and elevator equipment and escalator equipment, if the Improvements contain equipment of such nature, and insurance against loss of occupancy or use arising from any such breakdown, in such amounts as are reasonably satisfactory to Beneficiary; and

(g) such other insurance, in such form and such amounts, as may from time to time be required by Beneficiary against similar or other hazards.

4. Delivery of Insurance Policies; Payment of Premiums. Each policy of insurance required hereunder shall be fully prepaid and shall be issued by companies and in amounts by each company satisfactory to Beneficiary; shall contain an endorsement or agreement by the insurer that any loss shall be payable in accordance with the terms of such policy, notwithstanding any act or negligence of Grantor which might otherwise result in forfeiture of such insurance, and the further agreement of the insurer waiving all rights of setoff, counterclaim or deductions against Grantor; and shall have attached thereto a lender's loss payable endorsement for the benefit of Beneficiary, in a form satisfactory to Beneficiary. Grantor shall furnish Beneficiary with an original copy of each such policy, and, at least thirty (30) days prior to the expiration of each such policy, Grantor shall furnish Beneficiary with evidence

satisfactory to Beneficiary of the payment of premium and the reissuance of a policy continuing insurance in force as required by this Deed of Trust. Each such policy shall contain a provision stating that it will not be canceled or materially amended (which term shall include any reduction in the scope or limits of coverage) without at least thirty (30) days prior written notice to Beneficiary. If Beneficiary consents to Grantor providing any of the required insurance through blanket policies carried by Grantor and covering more than one location, then Grantor shall furnish Beneficiary with a certificate of insurance for each such policy, setting forth the same information as is required above for policies obtained solely for the Property. If Grantor fails to provide, maintain, keep in force or deliver and furnish to Beneficiary the policies of insurance required by this paragraph, Beneficiary may procure such insurance (or single-interest insurance for such risks, covering Beneficiary's interest), and Grantor will pay all premiums therefore promptly upon demand by Beneficiary, and until such payment is made by Grantor, the amount of all such premiums so paid by Beneficiary, together with interest thereon at the Loan Rate stated in the Note, shall be secured by this Deed of Trust.

WARNING. UNLESS YOU PROVIDE US WITH EVIDENCE OF THE INSURANCE COVERAGE AS REQUIRED BY OUR CONTRACT OR LOAN AGREEMENT, WE MAY PURCHASE INSURANCE AT YOUR EXPENSE TO PROTECT OUR INTEREST. THIS INSURANCE MAY, BUT NEED NOT, ALSO PROTECT YOUR INTEREST. IF THE COLLATERAL BECOMES DAMAGED, THE COVERAGE WE PURCHASE MAY NOT PAY ANY CLAIM YOU MAKE OR ANY CLAIM MADE AGAINST YOU. YOU MAY LATER CANCEL THIS COVERAGE BY PROVIDING EVIDENCE THAT YOU HAVE OBTAINED PROPERTY COVERAGE ELSEWHERE.

YOU ARE RESPONSIBLE FOR THE COST OF ANY INSURANCE PURCHASED BY THE LENDER. THE COST OF THIS INSURANCE MAY BE ADDED TO YOUR CONTRACT OR LOAN BALANCE. IF THE COST IS ADDED TO YOUR CONTRACT OR LOAN BALANCE, THE INTEREST RATE ON THE UNDERLYING CONTRACT OR LOAN WILL APPLY TO THIS ADDED AMOUNT. THE EFFECTIVE DATE OF COVERAGE MAY BE THE DATE YOUR PRIOR COVERAGE LAPSED OR THE DATE YOU FAILED TO PROVIDE PROOF OF COVERAGE.

THE COVERAGE WE PURCHASE MAY BE CONSIDERABLY MORE EXPENSIVE THAN INSURANCE YOU CAN OBTAIN ON YOUR OWN AND MAY NOT SATISFY ANY NEED FOR PROPERTY DAMAGE COVERAGE OR ANY MANDATORY LIABILITY INSURANCE REQUIREMENTS IMPOSED BY APPLICABLE LAW.

5. Insurance Impounds. At the request of Beneficiary, Grantor shall deposit with Beneficiary in monthly installments an amount equal to one-twelfth (1/12th) of the estimated aggregate annual insurance premiums on all policies of insurance required by this Deed of Trust. Upon such request of Beneficiary, Grantor shall further deposit with Beneficiary a reserve equal to two (2) such monthly installments, which reserve shall be maintained through the term of the Loan. Beneficiary may commingle such funds with its own funds, and Grantor shall be entitled to no interest thereon. Grantor further agrees, upon Beneficiary's request, to cause all bills, statements or other documents relating to the foregoing insurance premiums to be sent or mailed directly to Beneficiary. Upon receipt of such bills, statements or other documents, and providing Grantor has deposited sufficient funds therefore with Beneficiary pursuant to this paragraph, Beneficiary shall pay such amounts as may be due thereunder out of the funds so deposited with Beneficiary. If at any time or for any reason the funds deposited with Beneficiary for such purposes are or will be insufficient to pay such amounts as may then or subsequently be due, Beneficiary shall so notify Grantor, and Grantor shall immediately deposit an amount equal to such deficiency with Beneficiary. The foregoing notwithstanding, nothing contained in this Deed of Trust shall cause Beneficiary to be deemed a trustee of such funds, or to be obligated to pay any amounts in excess of the amount of funds deposited with Beneficiary for such purposes pursuant to this paragraph.

6. Insurance Proceeds. After the happening of any casualty to the Property, or any part thereof, Grantor shall give prompt written notice thereof to Beneficiary, and the following shall apply to the insurance proceeds received with respect to such casualty:

(a) Beneficiary shall have the option, in its sole discretion, of applying all or any part of such proceeds to any indebtedness secured hereby, in such order as Beneficiary may determine, or to the restoration of the Improvements; or paying such proceeds to Grantor.

(b) All such proceeds shall be payable to Beneficiary, and Grantor hereby authorizes and directs any affected insurance company to make payment of such proceeds directly to Beneficiary.

(c) Beneficiary is hereby authorized and empowered by Grantor to settle, adjust or compromise any claims for loss, damage or destruction under any such policy or policies of insurance.

(d) Except to the extent that such proceeds are received by Beneficiary and applied to the indebtedness secured hereby, nothing herein contained shall be deemed to excuse Grantor from repairing or maintaining the Property as required under this Deed of Trust, or restoring all damage or destruction to the Property, regardless of whether or not there are insurance proceeds available or whether any such proceeds are sufficient in amount, and the application or release by Beneficiary of any insurance proceeds shall not cure or waive any default or notice of default under this Deed of Trust, or invalidate any act done pursuant to such notice.

7. Assignment of Insurance Policies Upon Foreclosure. In the event of foreclosure of this Deed of Trust or other transfer of title to the Property in extinguishment (in whole or in part) of the debt secured hereby, all right, title and interest of Grantor in and to all policies of insurance required under this Deed of Trust shall inure to the benefit of, and pass to the successor in interest of, Grantor, or the purchaser or grantee of the Property.

8. Waiver of Rights by Grantor. All sums payable by Grantor hereunder shall be paid without the need for any notice or demand therefore, setoff, deduction, abatement, suspension, deferment, diminution or reduction whatsoever (whether by reason of any purported counterclaim or defense, or otherwise), and the obligations and liabilities of Grantor hereunder shall in no way be released, discharged or otherwise affected (except as expressly provided herein) by reason of: (a) any damage to, destruction of, or condemnation or similar taking of the Property, or any part thereof; (b) any restriction or prevention of, or interference with, any use of the Property, or any part thereof; (c) any title defect or encumbrance, or any eviction from the Real Property or the Improvements (or any part thereof), whether by title paramount or otherwise; (d) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation or other like proceeding relating to Beneficiary, or any action taken with respect to this Deed of Trust by any trustee or receiver of Beneficiary, or by any court, in any such proceeding; (e) any claim which Grantor has or might have against Beneficiary; (f) any default or failure on the part of Beneficiary to perform or comply with any of the terms hereof, or of any other agreement with Grantor; or (g) any other occurrence whatsoever, whether similar or dissimilar to the foregoing, whether or not Grantor shall have notice or knowledge of any of the foregoing. Except as expressly provided herein, Grantor waives all rights now or hereafter conferred by statute or otherwise to any abatement, suspension, deferment, diminution or reduction of any sum payable by Grantor, the payment of which is secured hereby. Grantor further waives any and all right to claim or recover against Beneficiary, its officers, employees, agents or representatives, for loss of or damage to Grantor, the Property, Grantor's other property, or the property of others under Grantor's control, from any cause insured against or required to be insured against by the provisions of this Deed of Trust. In addition, Grantor waives the benefit of all laws now existing or that hereafter may be enacted which: (A) provide for any appraisal before sale of any portion of the Property; or (B) in any way extend the time for the enforcement of the collection of the Note (or the debt evidenced thereby) or create or extend a period of redemption from any sale made in collecting such debt. Grantor agrees that Grantor will not at any time insist upon, plead, claim or take the benefit or advantage of any law now or hereafter in force providing for any such appraisal, valuation, stay, extension or redemption, and Grantor hereby waives and releases all rights of redemption, valuation, appraisal, stay of execution, notice of election to mature or declare due the whole of the secured indebtedness, and marshaling of security in the event of foreclosure of the liens hereby created. If any law referred to in this paragraph which is now in force, of which Grantor might take advantage despite this paragraph, shall hereafter be repealed or cease to be in force, such law shall not thereafter be deemed to preclude the application of this paragraph. Grantor expressly waives and relinquishes any and all rights and remedies which Grantor may have or be able to assert of the laws of the State of Oregon pertaining to the rights and remedies of sureties. Grantor hereby expressly waives and releases to the fullest extent permitted by law, the pleading of any statute of limitations as a defense to any and all obligations secured by this Deed of Trust. Further,

Grantor hereby expressly waives Grantor's right to a trial by jury in any action whatsoever related to this Deed of Trust and/or any of the Loan Documents, including, without limitation, any Grantor claim or counterclaim.

9. Payment of Impositions; Receipts. Except to the extent of the amounts Grantor deposits with Beneficiary pursuant to paragraph 10 herein, Grantor agrees to pay, at least ten (10) days prior to delinquency, all real property taxes and assessments, general and special, and all other taxes and assessments of any kind or nature whatsoever (including, but not limited to, nongovernmental levies or assessments such as maintenance charges, owner association dues or charges or fees, and levies or charges resulting from covenants, conditions and restrictions affecting the Property) which are assessed or imposed upon the Property, or become due and payable, and which create or may create a lien upon the Property, or any part thereof (all of which taxes, assessments and other charges are hereinafter referred to as "Impositions"); provided, however, that if, by law, any such Imposition is payable, or may at the option of the taxpayer be paid, in installments, Grantor may pay the same, together with any accrued interest on the unpaid balance of such Imposition, in installments as the same become due and before any fine, penalty, interest or cost may be added thereto for nonpayment. As used herein, the term Imposition shall include any form of assessment, license fee, license tax, business license fee, business license tax, commercial rental tax, levy, charge, penalty, tax or similar Imposition, imposed by any authority having the direct power to tax, including (but not limited to) any city, county, state or federal government, or any school, agricultural, lighting, drainage or other improvement or special assessment district thereof, as against any legal or equitable interest of Grantor in the Property, including, but not limited to, the following:

(a) Any assessment, tax, fee, levy or charge in substitution, partially or totally, for any assessment, tax, fee, levy or charge previously included within the definition of Imposition. It is the intention of Grantor and Beneficiary that all such new and increased assessments, taxes, fees, levies and charges be included within the definition of Imposition for the purposes of this Deed of Trust.

(b) Any assessment, tax, fee, levy or charge allocable to the operation of, or measured by the area of, the Property, including (but not limited to) any gross income tax or excise tax levied by the state, city, or federal government, or any political subdivision thereof, with respect to the possession, leasing, operating, management, maintenance, alteration, repair, use or occupancy of the Property, or any portion thereof.

(c) Any assessment, tax, fee, levy or charge upon this transaction, or any document creating or transferring an interest or an estate in the Property.

(d) If any law is enacted which: (1) allows Grantor to deduct from the value of the Property for the purpose of taxation the amount secured by any lien or security interest thereon or therein; (2) imposes, modifies or deems applicable any reserve or special requirement against deposits in or for the account of, or loans by, or other liabilities of, or other assets held by, Beneficiary; or (3) subjects Beneficiary to any tax or changes in any way the laws for the taxation of mortgages, deeds of trust, trust deeds, security interests, other liens (or debts secured thereby), or the manner of collection of such taxes, so as to affect this Deed of Trust or any other security given for the Loan, and the result is to increase the taxes imposed upon or the cost to Beneficiary or to reduce the amount of any payments receivable under such Loan Documents, then, and in each such event, such additional amounts as are necessary to compensate Beneficiary for such increased costs or reduced amounts shall be Impositions; provided, however, that Grantor shall have the right to prepay the Loan, or any portion thereof, in accordance with the provisions of the Note, and, provided, further, that if any such payment or reimbursement shall be unlawful or would constitute usury or render the Loan wholly or partially usurious under applicable law, then Beneficiary may, at its option, declare the outstanding balance of the Loan immediately due and payable or require Grantor to pay, or reimburse Beneficiary for the payment of, the lawful and non-usurious portion thereof. Except as hereinafter provided, Grantor covenants to furnish Beneficiary, within thirty (30) days after the date upon which any such Imposition is due and payable by Grantor, official receipts of the appropriate taxing authority, or other proof satisfactory to Beneficiary, evidencing the payments thereof.

10. Contest of Impositions. Grantor shall have the right, before any delinquency occurs, to contest or object to the amount or validity of any Imposition by appropriate legal proceedings, but this shall not be deemed or construed in any way as relieving, modifying or extending Grantor's covenant to pay any such Imposition at the time and in the

manner provided in this Deed of Trust, unless Grantor has: (a) given prior written notice to Beneficiary of Grantor's intent so to contest or object to an Imposition; (b) demonstrated to Beneficiary's satisfaction that the legal proceedings shall conclusively operate to prevent the sale of the Property, or any part thereof, to satisfy such Imposition prior to final determination of such proceedings; and (c) furnished such good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any such sale.

11. Imposition Impounds. Upon an event of default, Grantor shall deposit with Beneficiary in monthly installments an amount equal to one-twelfth (1/12th) of the annual amount reasonably estimated by Beneficiary as necessary to pay the Impositions due on the Property. Grantor shall further deposit with Beneficiary, upon funding of the Loan, a reserve equal to two (2) such monthly installments, which reserve shall be maintained through the term of the Loan. Beneficiary may commingle such funds with its own funds, and Grantor shall be entitled to no interest thereon. Grantor further agrees, upon Beneficiary's request, to cause all bills, statements or other documents relating to Impositions to be sent or mailed directly to Beneficiary. Upon receipt of such bills, statements or other documents, and providing Grantor has deposited sufficient funds therefore with Beneficiary pursuant to this paragraph, Beneficiary shall pay such amounts as may be due thereunder out of the funds so deposited with Beneficiary. If at any time or for any reason the funds deposited with Beneficiary for such purposes are or will be insufficient to pay such amounts as may then or subsequently be due, Beneficiary shall notify Grantor and Grantor shall immediately deposit an amount equal to such deficiency with Beneficiary. The foregoing notwithstanding, nothing contained in this Deed of Trust shall cause Beneficiary to be deemed a trustee of such funds, or to be obligated to pay any amounts in excess of the amount of funds deposited with Beneficiary for such purposes pursuant to this paragraph. Should Grantor fail to deposit with Beneficiary sums sufficient to fully pay such Impositions at least thirty (30) days before delinquency thereof, Beneficiary may, at Beneficiary's election, but without any obligation to do so, advance any amounts required to make up the deficiency, which advances, if any, shall be repayable to Beneficiary promptly on demand, and until such payment is made by Grantor, the amount of all such Impositions so paid by Beneficiary, together with interest thereon at the Loan Rate, shall be secured hereby.

12. No Joint Impositions. Grantor shall not suffer, permit or initiate the joint assessment of the Real Property and any personal property of Grantor, or any other procedure whereby the lien of real property taxes and the lien of personal property taxes shall be assessed, levied or charged to the Property as a single lien.

13. Tax Service. Grantor shall cause to be furnished to Beneficiary, at Grantor's sole cost and expense, a tax reporting service covering the Property, of the type and duration and with a company satisfactory to Beneficiary.

14. Payment of Municipal Taxes and Utilities.

(a) Payment. Grantor agrees to pay, at least three (3) days prior to delinquency, all business license taxes, utility charges (including, without limitation, charges for water, sewer, gas, electric and cable television), municipal services charges and municipal levies (including, without limitation, garbage collection and nuisance abatement charges), and any other tax, charge or fee of any kind or nature whatsoever due and payable by Grantor pertaining to the use and operation of the Property (collectively, "Municipal Taxes and Utilities Charges"). Upon Beneficiary's request, Grantor shall deposit monthly with Beneficiary such evidence as Beneficiary may reasonably require that Grantor has paid all Municipal Taxes and Utilities Charges payable by Grantor for the prior month. As used herein, "Assessment Charges" shall refer to unpaid Municipal Taxes and Utility Charges which any governmental entity asserts may result in the imposition of an assessment or a special assessment which can become a lien on the Property prior to the lien of this Deed of Trust.

(b) Assessment Charges Impounds. At the request of Beneficiary following the occurrence of an event of default hereunder or under any Loan Documents, Grantor shall deposit with Beneficiary, in monthly installments, an amount equal to the monthly amount reasonably estimated by Beneficiary as necessary to pay any and all Assessment Charges which are due and payable from Grantor. Beneficiary may commingle such funds with its own funds, and Grantor shall be entitled to no interest thereon. Grantor further agrees, upon Beneficiary's request following the occurrence of an event of default hereunder or under any Loan Document, to cause all bills, statements or other documents relating to Assessment Charges to be sent or mailed directly to Beneficiary. Upon receipt of such bills, statements or other documents, and providing Grantor has deposited sufficient funds therefor with

Beneficiary pursuant to this paragraph, Beneficiary shall pay such amounts as may be due thereunder out of the funds so deposited with Beneficiary. If at any time or for any reason the funds deposited with beneficiary for such purposes are or will be insufficient to pay such amounts as may then or subsequently be due, Beneficiary shall notify Grantor and Grantor shall immediately deposit an amount equal to such deficiency with Beneficiary. The foregoing notwithstanding, nothing contained herein shall cause Beneficiary to be deemed a trustee of such funds, or to be obligated to pay any amounts in excess of the amount of funds deposited with Beneficiary for such purposes pursuant to this paragraph. Should Grantor fail to deposit with Beneficiary sums sufficient to fully pay such Assessment Charges at least thirty (30) days before delinquency thereof, Beneficiary may, at Beneficiary's election, but without any obligation to do so, advance any amounts required to make up the deficiency, which advances, if any, shall be repayable to Beneficiary promptly on demand, and until such payment is made by Grantor, the amount of all such Assessment Charges so paid by Beneficiary, together with interest thereon at the Loan Rate shall be secured hereby.

15. **Actions Affecting Property.** Grantor shall appear in and contest any action or proceeding purporting to affect the security hereby created, or the rights or powers of Beneficiary or Trustee; and to pay all costs and expenses including costs of evidence of title, court costs, and attorneys' fees, in any such action or proceeding in which Beneficiary or Trustee may appear.

16. **Actions by Trustee and/or Beneficiary to Preserve Property.** Should Grantor fail to make any payment or to do any act as and in the manner provided in any of the Loan Documents, Beneficiary and/or Trustee, each in its own discretion, without obligation to do so and without the need for any notice to or demand upon Grantor, and without releasing Grantor from any obligation, may make such payment or do such act in such manner and to such extent as either may deem necessary to protect the security hereby created. In connection therewith (without limiting their general powers), Beneficiary and/or Trustee shall have (and each is hereby given) the right, but not the obligation: (a) to enter upon and take possession of the Property; (b) to make additions, alterations, repairs or improvements to the Property which they may consider necessary or proper to keep the Property in good condition and repair; (c) to appear and participate in any action or proceeding affecting (or which may affect) the security hereby created, or the rights or powers of Beneficiary or Trustee hereunder; (d) to pay, purchase, contest or compromise any encumbrance, claim, charge, lien or debt which, in their judgment may affect the security created hereby or be prior or superior thereto; and (e) in exercising such foregoing powers, to pay necessary expenses, including employment of counsel or other necessary or desirable consultants. Grantor shall, immediately upon demand therefore, pay all costs and expenses incurred by Beneficiary and/or Trustee in connection with the exercise by Beneficiary and/or Trustee of the foregoing rights, including (but not limited to) costs of evidence of title, court costs, appraisals, surveys and attorneys' fees.

17. **Survival of Warranties.** Grantor shall fully and faithfully satisfy and perform the obligations of Grantor contained in any agreement of Grantor incorporated by reference herein, and any modification or amendment thereof. All representations, warranties, covenants and agreements of Grantor contained herein or incorporated by reference herein shall survive the funding of the Loan, and shall remain continuing obligations, warranties, representations, covenants and agreements of Grantor during any time when any portion of the obligations secured by this Deed of Trust remain outstanding.

18. **Eminent Domain.** Should the Property, or any part thereof or interest therein, be taken or damaged by reason of any public improvement or condemnation proceeding, or in any other manner ("Condemnation"), or should Grantor receive any notice or other information regarding such proceeding, Grantor shall give prompt written notice thereof to Beneficiary, and:

(a) Beneficiary shall be entitled to all compensation, awards and other payments or relief therefore, and shall be entitled at its option to commence, appear in and prosecute, in its own name or in Grantor's name, any action or proceedings. Beneficiary shall also be entitled to make any compromise or settlement in connection with such taking or damage. All such compensation, awards, damages, rights of action and proceeds awarded to Grantor (the "Proceeds") are hereby assigned to Beneficiary, and Grantor agrees to execute such further assignments of the Proceeds as Beneficiary or Trustee may require.

(b) If any portion of the Property is so taken or damaged, Beneficiary shall have the option, in its sole and absolute discretion, to apply all such Proceeds, after deducting therefrom all of Beneficiary's costs and expenses (regardless of the particular nature thereof and whether incurred with or without suit or judgment), including attorneys' fees, incurred in connection with the obtaining of such Proceeds, upon any indebtedness secured hereby, in such order as Beneficiary may determine, or to apply all such Proceeds, after such deductions for costs and expenses, to the restoration of the Property upon such conditions as Beneficiary may determine to be advisable. No such application or release shall cure or waive any default or notice of default hereunder, or invalidate any act done pursuant to any such notice.

19. Additional Security. If Beneficiary at any time holds additional security for any of the obligations secured hereby, it may enforce the sale thereof, or otherwise realize upon the same, at its option, before, concurrently with, or after a sale is made hereunder.

20. Appointment of Successor Trustee. To the extent permitted by applicable law, Beneficiary may from time to time, by a written instrument executed and acknowledged by Beneficiary which is mailed to Grantor and recorded in the county in which the Property is located, and by otherwise complying with the provisions of the applicable law of the State of Oregon, substitute a successor or successors to the Trustee named herein or then acting hereunder.

21. Inspections. Beneficiary, or its agents, representatives or workmen, is authorized to enter at any reasonable time upon or in any part of the Property for the purpose of inspecting the same and for the purpose of performing any of the acts it is authorized to perform under the terms of any of the Loan Documents.

22. Liens. Grantor shall pay and promptly discharge, at Grantor's cost and expense, any and all liens, encumbrances and charges upon the Property, or any part thereof or interest therein; provided, however, that real property taxes and assessments affecting the Property may be paid as installments thereof become due and payable. Grantor shall have the right to contest in good faith the validity of any such lien, encumbrance or charge, provided further that Grantor shall thereafter diligently proceed to cause such lien, encumbrance or charge to be removed and discharged. If Grantor shall fail to discharge any such lien, encumbrance or charge, then, in addition to any other right or remedy of Beneficiary, Beneficiary may, but shall not be obligated to, discharge the same, by paying the amount claimed to be due, by procuring the discharge of such lien by depositing in court a bond or the amount claimed (or otherwise giving security for such claim), or in such other manner as is or may be prescribed by law.

23. Trustee's Powers. At any time and from time to time, without liability therefore and without the need for any notice to Grantor, upon written request of Beneficiary and presentation of this Deed of Trust and the Note for endorsement, and without affecting the personal liability of any person for payment of the indebtedness secured hereby or the effect of this Deed of Trust upon the remainder of the Property, Trustee may: (a) reconvey all or any part of the Property; (b) consent in writing to the making of any map or plat thereof; (c) join in granting any easement thereon; or (d) join in any extension agreement or any agreement subordinating the lien or charge hereof.

24. Beneficiary's Powers. Without affecting the liability of any other person liable for the payment of any obligation herein mentioned, and without affecting the lien or charge of this Deed of Trust upon any portion of the Property not then or theretofore released as security for the full amount of all unpaid obligations, Beneficiary may at any time and from time to time, without the need for any notice to Grantor: (a) release any person so liable; (b) extend the maturity date of or alter any of the terms of any such obligation; (c) grant other indulgences; (d) release or reconvey, or cause to be released or reconveyed, any or all of the Property; (e) take or release any other or additional security for any obligation herein mentioned; or (f) make compositions or other arrangements with debtors in relation thereto.

25. Financial Statements and Federal Tax Returns. Grantor shall cause to be delivered to Beneficiary, as soon as reasonably practicable, but in any event within ninety (90) days after the close of each operating year of Grantor, a statement of condition or balance sheet of Grantor as at the end of such operating year and an annual operating statement showing in reasonable detail all income and expenses of Grantor with respect to the operation of the

Property, prepared by Grantor and certified as to accuracy by an independent certified public accountant or representative of Grantor acceptable to Beneficiary. In addition, Grantor shall cause to be delivered to Beneficiary, as soon as reasonably practicable, but in any event by April 15th of each year, a copy of Grantor's annual federal income tax returns.

26. Trade Names. At the request of Beneficiary, Grantor shall execute a certificate, in form satisfactory to Beneficiary, listing the trade names under which Grantor operates or intends to operate the Property, and representing and warranting that Grantor does business under no other trade names with respect to the Property. Grantor shall immediately notify Beneficiary in writing of any change in such trade names, and will, upon request of Beneficiary, execute any financing statements and other certificates revised to reflect the change in trade name.

27. Events of Default. Each of the following events shall be deemed an event of default hereunder (an "Event of Default"):

(a) failure by Grantor to pay any installment of principal or interest, or any other sum secured hereby, as and when due;

(b) the filing of a petition against Grantor in an involuntary case under the federal bankruptcy laws, as now or hereafter constituted, or any other applicable federal or state bankruptcy, insolvency or other similar law; the appointing of a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of or for Grantor, or for any substantial part of its property; or the ordering of the winding up and liquidation of the affairs of Grantor; if any such petition, decree or order shall continue unstayed and in effect for a period of thirty (30) consecutive days;

(c) the commencement by Grantor of a voluntary case under the federal bankruptcy laws, as now or hereafter constituted, or any other applicable federal or state bankruptcy, insolvency or other similar law, with a consent by Grantor to the appointment of or to taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator (or other similar official) of or for Grantor, or of any substantial part of its property; the making by Grantor of any assignment for the benefit of creditors; the failure of Grantor to pay its debts as such debts become due; or the taking of any action by Grantor in furtherance of any of the foregoing;

(d) the issuance or levy of a writ of execution or attachment (or any similar process) against all or any part of, or interest in, the Property; or the entry of any judgment involving monetary damages against Grantor which shall become a lien on the Property, or any portion thereof or interest therein; if such execution, attachment (or similar process) or judgment is not released, bonded, satisfied, vacated or stayed within sixty (60) days after its entry or levy;

(e) if Grantor is a partnership or a limited liability company, the doing by or with respect to any general partner or managing member, respectively, of Grantor of any of the acts described in subparagraphs (b), (c) or (d) above;

(f) a "Transfer" of the Property (or any part thereof) by Grantor, as defined in Paragraph 38 below; or

(g) the occurrence of any breach of or default under any term, covenant, agreement, condition, provision, representation or warranty contained in any of the Loan Documents or in that Guaranty, of even date herewith, executed by Grantor, as defined therein, in favor of Beneficiary.

(h) Failure to provide executed Estoppels and SNDA's suitable for recordation within 60 days after loan closing.

28. Remedies Upon Default. Upon the occurrence of any Event of Default described in subparagraphs (b) or (c) of Paragraph 27 above, the entire indebtedness secured hereby shall automatically become due and payable, and upon the occurrence of any other Event of Default, Beneficiary may, at its option, declare all indebtedness secured hereby to be due and payable, and the same shall thereupon become due and payable without any need for

presentment, demand, protest or notice of any kind. Thereafter, Beneficiary may exercise any of the following remedies:

(a) Either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court (and without regard to the adequacy of its security), enter upon and take possession of the Property, or any part thereof, in its own name or in the name of Trustee, and do any acts which it deems necessary or desirable to preserve the value, marketability or rentability of the Property, or any part thereof or interest therein, to increase the income therefrom, or to protect the security hereby created; take custody of all accounts; negotiate with governmental authorities with respect to the Property's environmental compliance and remedial measures; take any action necessary to enforce compliance with environmental provisions, including but not limited to spending rents to abate any environmental contamination of the Property; make, terminate, enforce or modify leases of the Property upon such terms and conditions as Beneficiary deems proper; contract for goods and services, hire agents, employees, and counsel, make repairs, alterations, and improvements to the Property as necessary, in Beneficiary's judgment, to protect or enhance the security hereof; incur the risks and obligations ordinarily incurred by owners of property (without any personal obligation on the part of the receiver); and/or take any and all other actions which may be necessary or desirable to comply with Grantor's obligations hereunder and under the Loan Documents. All sums realized by Beneficiary under this subparagraph, less all costs and expenses incurred by Beneficiary under this subparagraph, including without limitation, attorney fees, and less such sums as Beneficiary deems appropriate as a reserve to meet future expenses under the subparagraph, shall be applied on any indebtedness secured hereby in such order as Beneficiary shall determine. Neither application of such sums to such indebtedness, nor any other action taken by Beneficiary under this subparagraph shall cure or waive any Event of Default or notice of default hereunder, or nullify the effect of any such notice of default. Beneficiary, or any employee or agent of Beneficiary, or a receiver appointed by a court, may take any action or proceeding hereunder without regard to (i) the adequacy of the security for the indebtedness secured hereunder, (ii) the existence of a declaration that the indebtedness secured hereby has been declared immediately due and payable, or (iii) the filing of a notice of default.

(b) With or without notice, and without releasing Grantor from any obligation hereunder, cure any default of Grantor and, in connection therewith, Beneficiary or its agents, acting by themselves or through a court appointed receiver, may enter upon the Property or any part thereof and perform such acts and things as Beneficiary deems necessary or desirable to inspect, investigate, assess, and protect the security hereof, including, without limitation, performance of any of Beneficiary's other rights. All costs and expenses incurred by Beneficiary with respect to the audits, tests, inspections, and examinations which Beneficiary or its agents or employees may conduct, including the fees of the engineers, laboratories, contractors, consultants, and attorneys, shall be paid by Grantor. All costs and expenses incurred by Trustee and Beneficiary pursuant to this subparagraph (including, without limitation, court costs, consultant fees and attorney fees, whether incurred in litigation or not and whether before or after judgment) shall bear interest at the Default Rate from the date they are incurred until said sums have been paid.

(c) Seek a judgment that Grantor has breached Grantor's covenants, representations and/or warranties related to Hazardous Materials set forth herein in Articles 40, 41, and/or 42 and/or in any other Loan Document, by commencing and maintaining an action or actions in any court of competent jurisdiction for breach of contract whether commenced prior to foreclosure of the Property or after foreclosure of the Property, and to seek the recovery of any and all costs, damages, expenses, fees, penalties, fines, judgments, indemnification payments to third parties, and other out-of-pocket costs or expenses (collectively, the "Environmental Costs") incurred or advanced by Beneficiary relating to the cleanup, remediation or other response action required by any Hazardous Materials Law, as hereinafter defined, or to which Beneficiary believes necessary to protect the Property, it being conclusively presumed between Beneficiary and Grantor that all such Environmental Costs incurred or advanced by Beneficiary relating to the cleanup, remediation or other response action of or to the Property were made by Beneficiary in good faith. All Environmental Costs incurred by Beneficiary under this subparagraph (including, without limitation, court costs, consultant fees and attorney fees, whether incurred in litigation or not and whether before or after judgment) shall bear interest at the Default Rate from the date of expenditure until such sums have been paid. Beneficiary shall be entitled to bid, at the sale of the Property held under Article 30, the amount of such costs, expenses and interest in addition to the amount of the other obligations hereby secured as credit bid, the equivalent of cash.

Grantor acknowledges and agrees that notwithstanding any term or provision contained herein or in the Loan Documents, the Environmental Costs shall be exceptions to any nonrecourse or exculpatory provision of the Loan Documents, and Grantor shall be fully and personally liable for the Environmental Costs hereunder, and such liability shall not be limited to the original principal amount of the obligations secured by this Deed of Trust, and Grantor's obligations shall survive the foreclosure, deed in lieu of foreclosure, release, reconveyance, or any other transfer of the Property or this Deed of Trust. For the purposes of any action brought under this subparagraph, Grantor hereby waives the defense of laches and any applicable statute of limitations.

(d) Waive its lien against the Property or any portion thereof, including any fixtures or personal property and to exercise any and all rights and remedies of an unsecured creditor against Grantor and all of Grantor's assets and property for the recovery of any deficiency and Environmental Costs. Grantor acknowledges and agrees that notwithstanding any term or provision contained herein or in the Loan Documents, all judgments and awards entered against Grantor shall be exceptions to any nonrecourse or exculpatory provision of the Loan Documents, and Grantor shall be fully and personally liable for all judgments and awards entered against Grantor hereunder and such liability shall not be limited to the original principal amount of the obligations secured by this Deed of Trust and Grantor's obligations shall survive the foreclosure, deed in lieu of foreclosure, release, reconveyance, or any other transfer of the Property or this Deed of Trust. For the purposes of any action brought under this subparagraph, Grantor hereby waives the defense of laches and any applicable statute of limitations.

(e) With or without taking possession of the Property, sue for or otherwise collect the rents, issues and profits thereof, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection (including attorneys' fees), upon any indebtedness secured hereby, all in such order as Beneficiary may determine.

(f) Commence an action to foreclose this Deed of Trust, appoint a receiver, or specifically enforce any of the covenants hereof.

(g) Deliver to Trustee a written Notice of Default and Notice of Sale, which notice Trustee or Beneficiary shall cause to be duly filed for record in the official records of the county in which the Property is located.

(h) Exercise any and all other rights provided for in any of the Loan Documents or by law. Neither the entering upon and taking possession of the Property nor the collection of such rents, issues and profits and application thereof as aforesaid shall cure or waive any default or notice of default hereunder, or invalidate any act done in response to such default or pursuant to such notice of default.

29. Foreclosure By Power of Sale. Should Beneficiary elect to foreclose on the Property by exercise of the power of sale herein contained, Beneficiary shall so notify Trustee and shall deposit with Trustee this Deed of Trust and the Note, and such receipts and evidence of expenditures made and secured hereby as Trustee may require, and the following shall apply:

(a) Upon receipt of such notice from Beneficiary, Trustee shall cause to be recorded, published and delivered to Grantor such Notice of Default and Notice of Sale as then required by law and by this Deed of Trust. Trustee shall, without the need for any further demand on Grantor, after lapse of such time as may then be required by law and after recordation of such Notice of Default and after Notice of Sale having been given as required by law, sell the Property at the time and place of sale fixed by it in such Notice of Sale, either as a whole or in separate lots or parcels or items, as Trustee shall deem expedient, and in such order as Trustee may deem expedient, at public auction to the highest bidder, for cash in lawful money of the United States payable at the time of sale. Trustee shall deliver to such purchaser or purchasers its good and sufficient deed(s) conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed(s) of any matters or facts shall be prima facie evidence in any court of the truth of the matters set forth therein, but the recitals shall be conclusive in favor of a purchaser for value in good faith relying upon them. Any person, including (but not limited to) Grantor, Trustee or

Beneficiary, may purchase at such sale, and Grantor hereby covenants to warrant and defend the title of such purchaser or purchasers.

(b) Trustee shall apply the proceeds of sale to payment of: (1) the expenses of the sale, including the compensation of the trustee, and a reasonable charge by the attorney; (2) the obligation secured by the trust deed; (3) all persons have recorded liens subsequent to the interest of the trustee in the trust deed as their interests may appear in the order of their priority; (4) the surplus, if any, to the grantor of the trust deed or to the successor in interest of the grantor entitled to such surplus.

(c) To the extent permitted under applicable law, Trustee may postpone sale of all or any portion of the Property by public announcement at such time and place of sale, and from time to time thereafter may postpone such sale by public announcement at the time fixed by the preceding postponement or subsequently noticed sale, and may, without further notice make such sale at the time fixed by the last postponement, or may, in its discretion, give a new notice of sale.

29A. Judicial Foreclosure. At the Trustee's or Beneficiary's election, the Beneficiary shall have the right to foreclose this Deed of Trust by judicial foreclosure, in either case in accordance with applicable law. If this Deed of Trust is foreclosed by judicial procedure, Beneficiary will be entitled to a judgment which will provide that if the foreclosure sale proceeds are insufficient to satisfy the judgment, execution may issue for any amount by which the unpaid balance of the obligations secured by this instrument exceeds the net sale proceeds payable to Beneficiary.

30. Appointment of Receiver. Following an Event of Default (including, without limitation, any breach of Grantor's covenants, representations and/or warranties related to Hazardous Materials contained in Articles 40, 41 and/or 42 hereof or in any of the other Loan Documents), Beneficiary, as a matter of right and without any need for notice to Grantor or anyone claiming under Grantor, and without regard to the then value of the Property or the interest of Grantor therein, shall have the right to apply to any court having jurisdiction over the Property to appoint a receiver or receivers of the Property, and Grantor hereby irrevocably consents to such appointment and waives notice of any application therefore. Any such receiver or receivers shall have all of the usual powers and duties of receivers in like or similar cases, and all the powers and duties of Beneficiary in case of entry as provided in this Deed of Trust, and shall continue as such and exercise all such powers until the date of confirmation of sale of the Property (unless such receivership is sooner terminated), including, without limitation, the power to administer any advances by Beneficiary hereunder, to collect rents and profits, and to apply any such advances and/or such rents and profits in connection with performing any of Beneficiary's remedies contained in Article 29 hereof.

31. Remedies Not Exclusive. Trustee and Beneficiary, and each of them, shall be entitled to enforce payment and performance of any indebtedness or obligations secured hereby, and to exercise all rights and powers under this Deed of Trust, any other Loan Documents, or any laws now or hereafter in force, whether or not some or all of the indebtedness and obligations secured hereby are now or hereafter otherwise secured (whether by mortgage, deed of trust, pledge, lien, assignment or otherwise). Neither the acceptance of this Deed of Trust nor its enforcement (whether by court action or pursuant to the power of sale or other powers herein contained) shall prejudice or in any manner affect Trustee's or Beneficiary's right to realize upon or enforce any other security now or hereafter held by Trustee or Beneficiary, it being agreed that Trustee and Beneficiary, and each of them, shall be entitled to enforce this Deed of Trust and any other security now or hereafter held by Beneficiary or Trustee in such order and manner as they or either of them may in their absolute discretion deem expedient. No remedy herein conferred upon or reserved to Trustee or Beneficiary is intended to be exclusive of any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be exclusive of any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder, or now or hereafter existing at law, in equity, or by statute. Every power or remedy given by any of the Loan Documents to Trustee or Beneficiary, or to which either of them may be otherwise entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by Trustee or Beneficiary, and either of them may pursue inconsistent remedies.

32. Limitation of Interest. It is the intent of Grantor and Beneficiary in the execution of any of the Loan Documents that may be subject to Oregon law to contract in strict compliance with the Usury Laws of the State of

Oregon if applicable, and in such case, Beneficiary and Grantor stipulate and agree that none of the terms and provisions contained in the Loan Documents shall ever be construed to create a contract for the use, forbearance or detention of money requiring payment of interest at a rate in excess of the maximum interest rate permitted to be charged by the laws of the State of Oregon governing the Loan evidenced by the Note. Neither Grantor nor any guarantor, endorser or other party now or hereafter becoming liable for the payment of the Note shall be liable for unearned interest on the Note, or be required to pay interest on the Note at a rate in excess of the maximum interest that may be lawfully charged by Beneficiary under applicable law, and the provisions of this paragraph shall control over all other provisions of the Note and any other Loan Documents which may be in apparent conflict herewith. If any holder of the Note shall collect monies which are deemed to constitute interest which would otherwise increase the effective interest rate on the Note to a rate in excess of that permitted to be charged by Beneficiary under applicable law, all such sums deemed to constitute interest in excess of the legal rate permitted to be charged by Beneficiary shall be immediately returned to Grantor upon such determination.

33. Statements by Grantor. Grantor, within ten (10) days after being given notice by mail, will furnish to Beneficiary a written statement stating the then existing balance of principal and any accrued but unpaid interest under the Note, and any other amounts secured by this Deed of Trust, and stating whether any offset or defense exist against payment of such principal, interest or other amounts.

34. Reconveyance by Trustee. Upon written request of Beneficiary stating that all sums secured hereby have been paid, and upon surrender of this Deed of Trust and the Note to Trustee for cancellation and retention, and payment by Grantor of Trustee's fees in connection therewith, Trustee shall reconvey to the person or persons legally entitled thereto, without warranty, any portion of the Property then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The Grantee in any reconveyance may be described as "the person or persons legally entitled thereto."

35. Invalidity of Lien. If the lien of this Deed of Trust is invalid or unenforceable as to any part of the debt secured hereby, or if the lien is invalid or unenforceable as to any part of the Property, the unsecured or partially secured portion of the debt shall be completely paid prior to the payment of the remaining and secured or partially secured portion of the debt, and all payments made on the debt, whether voluntary or under foreclosure or other enforcement action or procedure, shall be considered to have been first paid on and applied to the full payment of the portion of the debt which is not secured or fully secured by the lien of this Deed of Trust

36. Subrogation. To the extent that proceeds of the Note are owed to pay any outstanding lien, charge or prior encumbrance against the Property, such proceeds may be advanced by Beneficiary, and Beneficiary shall thereafter be subrogated to any and all such liens, charges and prior encumbrances, irrespective of whether said liens, charges or encumbrances are released.

37. Due-On-Sale and Encumbrance. Grantor acknowledges and agrees that the creditworthiness and expertise of Grantor and its general partners or members in owning, developing and operating the Real Property is the basis upon which Beneficiary has set the Loan Rate and determined that it is protected against impairment of its security and risk of default, and thereby has agreed to lend to Grantor the principal sum up to the amount set forth in the Note. In order to insure the continued creditworthiness and expertise of the owner of the Property, and in order to allow the holder of the Note an opportunity to review and evaluate the same, Grantor agrees, for itself and subsequent owners of the Property, that none of the Property shall be sold, conveyed, transferred, mortgaged, assigned, disposed of or further encumbered, in whole or in part, whether voluntarily, involuntarily, by operation of law or otherwise (in each case, a "Transfer"), without the written consent of the holder of the Note being first obtained. This provision shall apply to each and every Transfer, whether or not the holder of the Note has consented or waived its rights hereunder (whether by action or non-action) in connection with any previous Transfer. Consent to one Transfer shall not be deemed to be a waiver of the right to require consent for any future or successive Transfers. For purposes of this Paragraph, the word "Transfer" shall also include, without limitation, the following:

(a) if the Grantor or any of its general partners or members is a corporation, a transfer of a majority of the outstanding voting stock of the Grantor or such corporation;

(b) if the Grantor or any of its general partners or members is a partnership, a transfer of any of the general partnership interests in the Grantor or such general partner;

(c) if the Grantor or any of its general partners or members is a trust or other equity a transfer of a majority of the beneficial interest in the Grantor or such general partner or member; and

(d) if the Grantor or any of its general partners or members is a limited liability company, a transfer of any of the managing member's membership interest or a majority of the membership interests in the Grantor or such limited liability company.

38. No Merger. If the Grantor's and Beneficiary's estates hereunder shall at any time become vested in one owner, this Deed of Trust and the lien created hereby shall not be destroyed or terminated by application of the doctrine of merger, and, in such event, Beneficiary shall continue to have and enjoy all of the rights and privileges of Beneficiary hereunder. In addition, upon the foreclosure of the lien created by this Deed of trust on the Property, pursuant to the provisions hereof, no leases or subleases then existing and created by Grantor shall be destroyed or terminated by application of the law of merger or as a matter of law or as a result of such foreclosure unless Beneficiary or any purchaser at any such foreclosure sale shall so elect. No act by or on behalf of Beneficiary or any such purchaser shall constitute a termination of any lease or sublease unless Beneficiary or such purchaser shall give written notice thereof to such tenant or subtenant.

39. Hazardous Materials.

(a) Grantor shall comply and cause (i) all tenants under any lease or occupancy agreement affecting any portion of the Property and (ii) all other persons on or occupying the Property, to comply with all Hazardous Materials Laws, as such term is hereinafter defined. Without limiting the generality of the foregoing, Grantor covenants and agrees that it will not use, generate, manufacture, store or dispose of, nor will it permit the use, generation, storage or disposal of Hazardous Materials, as such term is hereinafter defined, on, under or about the Property, nor will it transport or permit the transportation of Hazardous Materials to or from the Property.

(b) Grantor agrees to submit during the term of the Loan, if requested by Beneficiary, a report, satisfactory to Beneficiary in its sole and absolute discretion, prepared by a consultant approved by Beneficiary, certifying that the Property is not then being used nor has it been used in the past for any activities involving, directly or indirectly, the use, generation, treatment, storage or disposal of any Hazardous Material. Beneficiary reserves the right, in its sole and absolute discretion, to retain, at Grantor's expense, an independent professional consultant to review any report prepared by or for Grantor and/or to conduct its own investigation of the Property. Grantor hereby grants to Beneficiary, its agents, employees, consultants and contractors the right to enter upon the Property and to perform such tests on the Property as are reasonably necessary to conduct such a review and/or investigation.

(c) Grantor shall immediately advise Beneficiary in writing of (i) any and all Hazardous Material Claims, as such term is hereinafter defined, (ii) any remedial action taken by Grantor in response to any (A) Hazardous Materials on, under or about the Property or (B) Hazardous Materials Claims, and (iii) Grantor's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Property, or to be otherwise subject to any restrictions on the ownership, occupancy, transferability or use of the Property under any Hazardous Materials Laws. In addition, Grantor shall provide Beneficiary with copies of all communications with federal, state and local governments or agencies relating to Hazardous Materials Laws and all communications with any person relating to Hazardous Materials Claims.

Hazardous Materials: Means (a) any petroleum, including crude oil or any fraction thereof, natural gas, natural gas liquids, liquefied natural gas or synthetic gas usable for fuel, or any mixture thereof, flammable substances, explosives, radioactive materials, hazardous wastes or substances, toxic wastes, wastes or substances or any other materials or pollutants which (i) pose a hazard to the Property or to persons on or about the Property or (ii) cause the Property to be in violation of any Hazardous Materials Laws; (b) asbestos in any form which is or could become friable, urea formaldehyde foam insulation, transformers or other equipment which contain dielectric fluid containing levels of polychlorinated biphenyls in excess of fifty (50) parts per million; (c)

any chemical, material or substance defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous waste," "restricted hazardous waste," "waste" or "toxic substances" or words of similar import under any applicable local, state or federal law or under the regulations adopted or publications promulgated pursuant thereto, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. 9601, et seq.; the Hazardous Materials Transportation Act, as amended, 49 U.S.C. 1801, et seq.; the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901, et seq.; the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, et seq.; and (d) any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any governmental authority which may or could pose a hazard to the health and safety of the occupants of the Property or the owners and/or occupants of property adjacent to or surrounding the Property.

Hazardous Materials Claims: Any and all enforcement, clean-up, removal or other governmental or regulatory actions or order threatened, instituted or completed pursuant to any Hazardous Materials Laws, together with all claims made or threatened by any third party against Grantor or the Property relating to damage, contribution, cost recovery compensation, loss or injury resulting from any Hazardous Materials.

Hazardous Materials Laws: Any federal, state or local laws, ordinances, regulations or policies relating to the environment, health and safety, any Hazardous Materials (including, without limitation, the use, handling, transportation, production, disposal, discharge or storage thereof) or to industrial hygiene or the environmental conditions on, under or about the Property, including, without limitation, soil and groundwater conditions.

40. Hazardous Materials, Grantor's Remedial Action.

(a) Grantor shall promptly take any and all necessary remedial action in response to the presence, storage, use, disposal, transportation or discharge of any Hazardous Materials on, under or about the Property; provided, however, that Grantor shall take such remedial action in good faith so as to minimize any impairment to Beneficiary's security hereunder. If Grantor undertakes any remedial action with respect to any Hazardous Materials on, under or about the Property, Grantor shall conduct and complete such remedial action (i) in compliance with all applicable federal, state and local laws, regulations, rules, ordinances and policies, (ii) in accordance with prudent industry practices, and (iii) in accordance with the orders and directives of all federal, state and local governmental authorities.

(b) Grantor shall not create or permit to continue in existence any lien (whether or not such lien has priority over the lien created by this Deed of Trust) upon the Property imposed pursuant to any Hazardous Materials Law.

(c) The intended use of the Property is Commercial (the "Permitted Use") and Grantor shall not change or alter the Permitted Use unless Grantor shall have notified Beneficiary thereof in writing and Beneficiary shall have determined, in its sole and absolute discretion, that such change or modification will not result in the presence of Hazardous Materials on the Property in such a level that would increase the potential liability for Hazardous Materials Claims.

(d) Beneficiary shall have the right to join and participate in, as a party if it so elects, any legal proceedings or actions initiated in connection with any Hazardous Materials Claims and to have its reasonable attorneys' fees in connection therewith paid by Grantor.

41. Hazardous Materials, Indemnity. Grantor shall protect, indemnify and hold Beneficiary, its directors, officers, employees and agents, and any successors to Beneficiary's interest in the Property, and any other person who acquires any portion of the Property at a foreclosure sale or otherwise through the exercise of Beneficiary's rights and remedies under the Loan Documents or following a deed in lieu of foreclosure, and any successors to any such other person, and all directors, officers, employees and agents of all of the aforementioned indemnified parties, harmless from and against any and all actual or potential claims, proceedings, lawsuits, liabilities, damages, losses, fines, penalties, judgments, awards, costs and expenses (including, without limitation, reasonable attorneys' fees and costs and expenses of investigation), whether arising before or after the foreclosure, deed in lieu of foreclosure,

release, reconveyance, or any other transfer of the Property or this Deed of Trust, where such claims, proceedings, lawsuits, liabilities, damages, losses, fines, penalties, judgments, awards, costs and expenses arise out of or relate in any way to the Loan or to any use, handling, production, transportation, disposal or storage of any Hazardous Materials in or on the Property whether by Grantor or any tenant or any other person, including, without limitation, (i) all foreseeable and all unforeseeable consequential damages directly or indirectly arising out of (A) the use, generation, storage, discharge or disposal of Hazardous Materials by Grantor, any prior owner or operator of the Property or any person on or about the Property, or (B) any residual contamination affecting any natural resource or the environment; and (ii) the costs of any inspection, testing, containment, repair, cleanup, or detoxification of the Property and the preparation of any closure or other required plans. In addition, Grantor agrees that in the event any Hazardous Material is caused to be removed from the Property by Grantor, Beneficiary or any other person, the number assigned by the Environmental Protection Agency to such Hazardous Material shall be solely in the name of Grantor and Grantor shall assume any and all liability for such removed Hazardous Material. All such costs, damages, and expenses referred to in this Article 42 are hereinafter referred to as "Expenses." Grantor understands and agrees that its liability to the aforementioned indemnified parties shall arise upon the earlier to occur of (1) discovery of any Hazardous Materials on, under or about the Property or (2) the institution of any Hazardous Materials Claim, and not upon the realization of loss or damage. The agreements contained in this Article 42 shall survive the repayment of the Loan and the foreclosure, deed in lieu of foreclosure, release, reconveyance, or any other transfer of the Property or this Deed of Trust. If Beneficiary pays any Expenses, such Expenses shall be in addition to all sums secured hereby and shall become immediately due and payable without notice and with interest thereon at the interest rate provided in the Note.

Notices. All notices and demands of any kind which the parties hereto may be required or may desire to give to or make on one another in connection with this Agreement or any of the other Loan Documents shall be in writing, and shall either be served personally or by registered or certified mail, return receipt requested. Any such notice or demand so served by registered or certified mail shall be deposited in the United States mail with postage thereon fully prepaid, addressed to the party to be served as follows:

If to Beneficiary: First Republic Bank
111 Pine Street
San Francisco, CA 94111
Attn: Loan Administration

If to Grantor: Washburn Way Industrial Park LLC
3611 SE 20th Ave Suite 300
Portland, OR 97202

Each such notice or demand shall be deemed to have been given or made on the day of actual delivery, or at the expiration of the third day after the date of being so mailed, whichever is earlier in time, unless the actual receipt of the notice or demand is called for in this Agreement, in which case it shall be deemed to have been given or made only on the date of such actual receipt. Any party hereto may from time to time, by notice in writing given in the aforesaid manner, designate different mailing addresses or persons to which or to whom such notices or demands are thereafter to be addressed, but such change of address or change of party to be addressed notices shall be effective only upon actual receipt. In no event shall Beneficiary be obligated to serve more than a total of two (2) original and/or copies of a given notice or demand, for that notice or demand to be deemed to have been given or made under this Agreement. If the circumstances are ever such that there is a greater number of addresses and/or parties at or on which originals and/or copies of notices or demands might otherwise be required to be served by Beneficiary under the terms of this Agreement, Beneficiary shall only be obligated to serve such originals and/or copies of notices on the first two (2) of such addresses and/or parties of which it is notified (except to the extent that Grantor directs Beneficiary, by notice in the aforesaid manner, to substitute other addresses and/or parties for those first ones).

42. Intentionally Omitted.

43. Headings. The headings of the various paragraphs hereof are intended solely for means of reference, and are not intended for any purpose whatsoever to modify, explain or place any construction on any of the provisions of this Deed of Trust.

44. **Invalidity.** If any provision of this Deed of Trust or the application thereof to any person(s) or circumstance(s) shall to any extent be held to be invalid or unenforceable, neither the remainder of this Deed of Trust nor the application of such provision to any person(s) or circumstance(s) other than those as to whom or which it is held to be invalid or unenforceable shall be affected thereby, and every provision of this Deed of Trust shall be valid and enforceable to the fullest extent permitted by law.

45. **Attorneys' Fees.** In the event of any litigation involving Grantor and Beneficiary for the enforcement of any of the provisions of this Deed of Trust, or any right of Grantor or Beneficiary hereunder, the unsuccessful party in such litigation hereby agrees to pay to the successful party all costs and expenses, including (but not limited to) reasonable attorneys' fees, expert witness fees and costs, exhibit costs and court costs (whether incurred at the trial, appellate or administrative levels), incurred by the successful party in such litigation, all of which may be included in, and as part of, any judgment or decision rendered in such litigation.

46. **Entire Agreement.** The terms of this Deed of Trust are intended by Grantor, Trustee and Beneficiary as a final expression of their agreement with respect to the subject matter hereof, and may not be contradicted by evidence of any prior or contemporaneous agreement. Such parties further intend that this Deed of Trust constitutes the complete and exclusive statement of its terms, and that no extrinsic evidence whatsoever may be introduced in any proceedings, if any (judicial or otherwise), involving this Deed of Trust, except for evidence of a subsequent written amendment to this Deed of Trust.

47. **Successors.** All of the terms, covenants and conditions of this Deed of Trust shall be binding upon, and shall inure to the benefit of, the heirs, executors, administrators, successors, and permitted assigns of Grantor, Trustee and Beneficiary.

48. **Time of the Essence.** Time is of the essence in this Deed of Trust.

49. **Governing Law.** This Deed of Trust shall be governed by, and construed in accordance with, the laws of the State of Oregon.

50. **Cumulative Rights.** The right, powers and remedies given to Beneficiary pursuant to this Deed of Trust shall be in addition to all rights, powers and remedies given to Beneficiary by virtue of any applicable governmental law, ordinance, rule, regulation or requirement. No forbearance, failure or delay by Beneficiary in exercising any right, power or remedy granted to Beneficiary hereunder shall be deemed a waiver of such right, power or remedy, nor shall any such forbearance, failure or delay preclude the further exercise of such right, power or remedy, or any other right, power or remedy; and every such right, power and remedy of Beneficiary shall continue in full force and effect until such right, power or remedy is explicitly waived by Beneficiary in writing.

51. **Recitals and Exhibits.** The recitals at the beginning of this Deed of Trust are accurate and shall constitute an integral part of this Deed of Trust, and this Deed of Trust shall be construed in light of those recitals. The exhibits, schedules, and addenda (if any) attached to and referred to in this Deed of Trust are hereby incorporated into this Deed of Trust as fully as if set out in their entirety herein.

52. **Pronouns and Conjunctions.** In this Deed of Trust, personal pronouns shall be construed as though of the gender and number required by the context (the singular including the plural, the plural including the singular, and each gender including other genders, all as may be required by the context). Wherever in this Deed of Trust the term "and/or" is used, it shall mean one or the other, both, any one or more, or all of the things, events, persons or parties in connection with which the term is used.

53. **Modification.** This Deed of Trust may not be modified, amended or otherwise changed in any manner, except by a written amendment executed by both Grantor and Beneficiary, or their respective successors in interest.

54. **Joint and Several Obligations.** If this Deed of Trust is signed by more than one party as Grantor, the obligations of Grantor hereunder shall be joint and several. Each married person who signs this Deed of Trust in his

or her individual capacity expressly agrees that, in addition to community property, his or her separate property shall be liable for all indebtedness secured by this Deed of Trust.

55. Note Rate. The Note secured by this Deed of Trust may bear interest at an adjustable rate as set forth in the Note. The provisions of the Note, and all extensions, modifications and renewals thereto, are hereby incorporated by reference into this Deed of Trust.

56. This Section of this Deed of Trust constitutes a security agreement and fixture filing pursuant to the Oregon Uniform Commercial Code (the "Code") pursuant to the following terms:

(a) To secure payment and performance of all of the obligations of Grantor under this Deed of Trust, Grantor grants Beneficiary a security interest in all now owned and hereafter acquired personal property of Grantor obtained for or in connection with the design, planning, construction, development, use, operation, maintenance, or marketing of the Property (collectively, the "Collateral"), including the following:

(i) all fixtures, machinery, machines, motor vehicles, tools, parts, equipment, pumps, engines, motors, boilers, incinerators, building materials, inventory, supplies, goods, systems for the supply or distribution of heat, air conditioning, electricity, gas, water, air or light, elevators and related machinery and equipment, fire prevention and extinguishing equipment, security and access control equipment, plumbing, showers, bath tubs, water heaters, toilets, sinks, stoves, ranges, refrigerators, dishwashers, disposals, laundry equipment, wall, window and floor coverings, partitions, doors, windows, hardware, waste and rubbish removal equipment, recreational equipment, signs, furniture, furnishings, appliances, telephone equipment, computer systems, office equipment and supplies, plants, carpets, rugs, sculptures, art work, mirrors, tables, lamps, beds, television sets, light fixtures, chandeliers, desks, cabinets, bookcases, chairs, sofas, benches, and janitorial and maintenance equipment and supplies, and all substitutions, accessories, accessions, replacements, improvements, and additions to any or all of the foregoing;

(ii) all deposits, advance payments, security deposits, and rental payments made by or on behalf of Grantor to others in connection with the Property and relating to any or all of the following: (a) management or operational services; (b) marketing services; (c) architectural, engineering, or design services; (d) utility services; (e) cleaning, maintenance, security, or repair services; (f) rubbish or refuse removal services; (g) sewer services; (h) rental of furnishings, fixtures or equipment; (i) parking; or (j) any service similar to any or all of the foregoing;

(iii) all reports, appraisals, drawings, plans, blueprints, studies, specifications, certificates of occupancy, building permits, grading permits, and surveys relating to all or part of the Property, and all amendments, modifications, supplements, general conditions and addenda thereto;

(iv) all trade names, trademarks, trade styles, service marks, logos, letterheads, advertising symbols, goodwill, telephone numbers, advertising rights, negatives, prints, brochures, flyers, pamphlets and other media items used or intended to be used in connection with the Property;

(v) all warranties and guaranties, whether written or oral, from any third Person which directly or indirectly relate to all or part of the Property or personal property described in parts (i) through (iv) of this Section 56(a);

(vi) all legal and equitable claims, causes of action, and rights against architects, engineers, designers, contractors, subcontractors, suppliers, materialmen and any other Persons supplying labor, services, materials or equipment, directly or indirectly, in connection with the design, planning, construction, development, use, operation, maintenance, or marketing of all or part of the Property;

(vii) all condemnation claims with respect to the Property, condemnation proceeds with respect to the Property, claims and proceeds from claims with respect to the Property, insurance claims and insurance proceeds with respect to the Property (regardless of whether or not Beneficiary required Grantor to obtain or maintain in

effect the insurance policy or insurance policies under which the insurance claims arise or the insurance proceeds are payable);

(viii) all real property tax refund claims, general intangibles, accounts, deposit accounts, documents, instruments, chattel paper, and accounts receivable relating to the design, planning, construction, development, use, operation, maintenance or marketing of all or part of the Property, including any right to payment for goods sold or leased or to be sold or leased or for services rendered or to be rendered, however evidenced, including purchase orders, negotiable documents, notes, drafts, acceptances, claims, instruments, insurance policies, and all other forms of obligations and receivables; and

(ix) all products and proceeds of any or all of the foregoing personal property, including all money, deposit accounts, accounts, chattel paper, documents, notes, drafts, instruments, insurance proceeds, and all other tangible and intangible property resulting from the sale, lease, or other disposition of any or all of the foregoing personal property.

(b) Beneficiary may file one or more financing statements, and may file this Deed of Trust, or a reproduction thereof, in the real estate records or other appropriate index as a financing statement, for any of the items of Collateral specified in Section 56(a) above which is or may be part of the Property. Any reproduction of this Deed of Trust or of any other security agreement or financing statement shall be sufficient as a financing statement. Grantor agrees to execute and deliver to Beneficiary, upon Beneficiary's request, any financing statements, as well as extensions, renewals and amendments thereof, and reproductions to this Deed of Trust in such form as Beneficiary may require to perfect a security interest with respect to all or part of the Collateral. Grantor shall pay all costs of filing of such financing statements and any extensions, renewals, amendments and releases thereof, and shall pay all costs and expenses of any record searches for financing statements Beneficiary may reasonably require.

(c) Grantor, at its sole cost and expense shall do the following:

(i) shall give Beneficiary at least thirty (30) days prior written notice of any change in Grantor's principal place of business and the acquisition or use of a trade name or style by Grantor;

(ii) shall promptly notify Beneficiary in writing of any claim, lien, security interest, right, encumbrance or any other occurrence which may be adverse to Beneficiary's security interest in the Collateral;

(iii) shall defend the Collateral from all claims, liens, security interests, rights, encumbrances and other matters which are adverse to Beneficiary's security interest in the Collateral;

(iv) shall promptly pay all costs and expenses relating to the purchase, ownership, or use of the Collateral, including all liens, taxes, assessments and charges of Governmental Authorities levied, assessed or imposed on all or part of the Collateral;

(v) shall refrain from selling, transferring, pledging, hypothecating, leasing or otherwise disposing of or abandoning all or part of the Collateral without Beneficiary's prior written consent, except for the sale of inventory in the ordinary course of Grantor's business or the disposition of any Collateral which is replaced with new Collateral of substantially comparable value and utility;

(vi) shall refrain from removing any material part of the Collateral which consists of tangible personal property from its location on the Property without Beneficiary's prior written consent;

(vii) shall, upon Beneficiary's request, give notice, in form and substance acceptable to Beneficiary, to any or all account debtors designated by Beneficiary of Grantor's grant of a security interest in any Collateral which consists of accounts, contract rights, instruments, documents, or general intangibles (referred to collectively as the "Accounts" and individually as an "Account");

(viii) following the occurrence of any Event of Default, shall not compromise, settle, adjust, or grant any discount, credit, or allowance to any Account debtor without Beneficiary's prior written consent;

(ix) shall undertake any and all other acts necessary or appropriate to maintain, preserve and protect the Collateral and Beneficiary's security interest therein, including any actions requested by Beneficiary; and

(x) shall execute and deliver to Beneficiary such other documents as Beneficiary may request in order to evidence, effectuate, perfect, maintain, preserve or protect Beneficiary's security interest in the Collateral, including financing statements, continuation financing statements, financing statement amendments, security agreements, and assignments. If Grantor fails to execute and deliver to Beneficiary any document requested by Beneficiary pursuant Section 56(c) within ten (10) days after such request, then Grantor irrevocably appoints Beneficiary, with full power of substitution, as Grantor's attorney-in-fact, coupled with an interest, with full power, in its own name or in the name of Grantor, to execute such document on behalf of Grantor. Grantor has set forth above its full and correct name, and Grantor does not presently use any other names or trade names, except for those trade names specifically disclosed in writing by Grantor to Beneficiary prior to the recordation of this Deed of Trust. Nothing contained in this Section 56 shall be construed to obligate Beneficiary to act on behalf of Grantor as attorney-in-fact.

(d) Without limiting Sections 27 and 28 of this Deed of Trust, upon the occurrence of an Event of Default, Beneficiary shall have the following additional rights and remedies with respect to the Collateral:

(i) Beneficiary shall have all the rights and remedies of a secured party under the Code and under any other applicable law, and, at Beneficiary's option, shall also have the right to invoke any or all of the remedies provided in Section 28 of this Deed of Trust with respect to the Collateral, and in exercising any of such remedies, Beneficiary may proceed against the items of real property and any items of Collateral separately or together and in any order whatsoever, without in any way affecting the availability of Beneficiary's remedies under the Code or of the remedies provided in Section 28 of this Deed of Trust;

(ii) Beneficiary, at its option, shall have the right (a) to direct any or all Account debtors to make payment directly to Beneficiary; (b) to demand, collect, receive and give receipts for any and all money and other property due or to become due in connection with all or part of the Collateral, including any of the Accounts; (c) to take possession of and endorse and collect any or all notes, checks, drafts, money orders, or other instruments of payment relating to all or part of the Collateral or proceeds of the Collateral, including any of the Accounts; and (d) to file any claim and take any other action which Beneficiary determines to be appropriate for the purpose of collecting any or all of the Accounts and to compromise, adjust or settle Accounts for less than face value thereof, and to execute all releases and other documents in connection therewith; provided, however, that Beneficiary shall not be obligated in any manner to make any demand for or to make any inquiry as to the nature or sufficiency of any payment received by it, or to present or file any claim or take any action to collect or enforce the payment of any or all of the Accounts;

(iii) should Beneficiary seek to take possession of any or all of the Collateral by court process, Grantor irrevocably and unconditionally agrees that a receiver may be appointed by a court for such purpose without regard to the adequacy of the security for the obligations secured by this Deed of Trust; and

(iv) Grantor irrevocably appoints Beneficiary, with full power of substitution, as Grantor's attorney-in-fact, coupled with an interest, with full power, in its own name or in the name of Grantor to take any or all of the actions described Section 56(d)(ii) after the occurrence of an Event of Default. Beneficiary, at its option, and whether or not an Event of Default exists, shall at all times have the right (a) to take such actions as Beneficiary determines to be necessary or appropriate to maintain, preserve and protect the Collateral and Beneficiary's security interest therein; and (b) to give notice to any Account debtor containing such information and instructions concerning the existence of Beneficiary's security interest and rights in the Collateral under this Deed of Trust as Beneficiary determines to be necessary or appropriate to protect its interest.

(ii) Beneficiary, at its option, shall have the right (a) to direct any or all Account debtors to make payment directly to Beneficiary; (b) to demand, collect, receive and give receipts for any and all money and other property due or to become due in connection with all or part of the Collateral, including any of the Accounts; (c) to take possession of and endorse and collect any or all notes, checks, drafts, money orders, or other instruments of payment relating to all or part of the Collateral or proceeds of the Collateral, including any of the Accounts; and (d) to file any claim and take any other action which Beneficiary determines to be appropriate for the purpose of collecting any or all of the Accounts and to compromise, adjust or settle Accounts for less than face value thereof, and to execute all releases and other documents in connection therewith; provided, however, that Beneficiary shall not be obligated in any manner to make any demand for or to make any inquiry as to the nature or sufficiency of any payment received by it, or to present or file any claim or take any action to collect or enforce the payment of any or all of the Accounts;

(iii) should Beneficiary seek to take possession of any or all of the Collateral by court process, Grantor irrevocably and unconditionally agrees that a receiver may be appointed by a court for such purpose without regard to the adequacy of the security for the obligations secured by this Deed of Trust; and

(iv) Grantor irrevocably appoints Beneficiary, with full power of substitution, as Grantor's attorney-in-fact, coupled with an interest, with full power, in its own name or in the name of Grantor to take any or all of the actions described Section 56(d)(ii) after the occurrence of an Event of Default. Beneficiary, at its option, and whether or not an Event of Default exists, shall at all times have the right (a) to take such actions as Beneficiary determines to be necessary or appropriate to maintain, preserve and protect the Collateral and Beneficiary's security interest therein; and (b) to give notice to any Account debtor containing such information and instructions concerning the existence of Beneficiary's security interest and rights in the Collateral under this Deed of Trust as Beneficiary determines to be necessary or appropriate to protect its interest.

(e) The Collateral in which Beneficiary has a security interest under this Section 56 includes goods which are or may become Fixtures on the Property. This Deed of Trust constitutes a fixture filing pursuant to the terms of ORS 79.0502, which shall be recorded in the real estate records of the county in which the Property is located.

57. Not Residential Trust Deed. Grantor warrants that this Deed of Trust is not and will at all times continue not to be a residential trust deed (as that term is defined in ORS 86.705(3)).

58. **STATUTORY NOTICE. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.**

UNDER OREGON LAW, MOST AGREEMENTS, PROMISES AND COMMITMENTS MADE BY THE LENDER AFTER OCTOBER 3, 1989 CONCERNING LOANS AND OTHER CREDIT EXTENSIONS WHICH ARE NOT FOR PERSONAL, FAMILY OR HOUSEHOLD PURPOSES OR SECURED SOLELY BY THE BORROWER'S RESIDENCE MUST BE IN WRITING, EXPRESS CONSIDERATION AND BE SIGNED BY THE LENDER TO BE ENFORCEABLE.

IN WITNESS WHEREOF, Grantor has executed this Deed of Trust as of the day and year first above written.

**Washburn Way Industrial Park LLC,
an Oregon limited liability company**

By: 
Kelly Bruun,
Its: Sole Member

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of RIVERSIDE

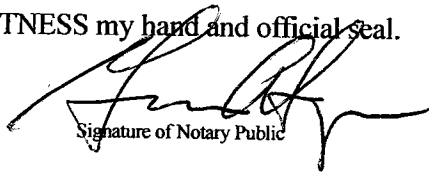
On 3/26/14 before me, GIOVANNI A. SAGUN NOTARY PUBLIC
(Here insert name and title of the officer)

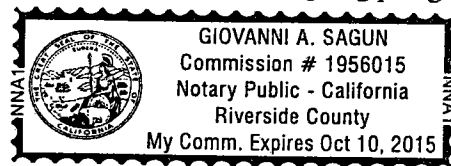
personally appeared KELLY CHRIS BRUNN

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.


Signature of Notary Public



(Notary Seal)

ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

DEED OF TRUST

(Title or description of attached document)

SEC AGMT, Fixture

(Title or description of attached document continued)

Number of Pages _____ Document Date _____

(Additional information)

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
☐ Corporate Officer

(Title)

- ☐ Partner(s)
☐ Attorney-in-Fact
☐ Trustee(s)
☐ Other _____

INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
 - Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
 - The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
 - Print the name(s) of document signer(s) who personally appear at the time of notarization.
 - Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he/she/they~~ is are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
 - The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
 - Signature of the notary public must match the signature on file with the office of the county clerk.
 - ☒ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ☒ Indicate title or type of attached document, number of pages and date.
 - ☒ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document

SCHEDULE "1"

Property Address 4100 - 4168 Washburn Way, Klamath Falls, OR 97603

Legal Description of Real Property to the Deed of Trust and Fixture Filing dated March 19, 2014 executed by Washburn Way Industrial Park LLC, an Oregon limited liability company ("Grantor") for the benefit and security of First Republic Bank, its successors and assigns ("Beneficiary").

EXHIBIT "A"
LEGAL DESCRIPTION

PARCEL 1

The N1/2 of the following described parcel of land:

All that portion of the E1/2 of the NE1/4 of the SE1/4 of Section 9, Township 39 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, which lies Southerly of line drawn parallel to and distant 330 feet Northerly of the Southerly boundary of the said East half of the NE1/4 of the SE1/4, situated in the County of Klamath, State of Oregon.

EXCEPTING THEREFROM that portion conveyed to Klamath County by Warranty Deed recorded February 2, 1988 in Volume M88, page 1442, Microfilm Records of Klamath County, Oregon.

PARCEL 2

The S1/2 of that part of the E1/2 of the NE1/4 of the SE1/4 of Section 9, Township 39 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, lying South of a line drawn parallel to a 330 feet Northerly of the Southerly line of said E1/2 of the NE1/4 of the SE1/4, the S1/2 of the Southerly 330 feet measured parallel with the Southerly line of the E1/2 of the NE1/4 of the SE1/4 of Section 9, Township 39 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon.

EXCEPTING THEREFROM the East 20 feet deeded to Klamath County for road in Volume 336, page 306, Deed Records of Klamath County, Oregon.

ALSO EXCEPTING THEREFROM that portion conveyed to Klamath County by instrument recorded February 2, 1988 in Volume M88, page 1442 and 1451, Microfilm Records of Klamath County, Oregon.

SCHEDULE "2"
Personal Property

All of the following personal property of Grantor, Whether now existing or hereafter acquired, now or at any time hereafter attached to, erected upon, situated in or upon, forming a part of, appurtenant to, or arising from the use or enjoyment of all of any portion of, or from any lease or agreement pertaining to, the Real Property:

- (a) all of the income, rents, royalties, issues, profits, revenue and other benefits of any and all of such Real Property;
- (b) all of the estate, interest or other claim or demand in and to such Real Property, including (but not limited to) all deposits made with or other security given to utility companies by Grantor with respect to such Real Property and the improvements thereon, all advance payments of insurance premiums made by Grantor with respect thereto, and all claims or demands with respect to insurance or such deposits or security;
- (c) all furniture and furnishings, building service equipment, building materials, supplies, machinery, boilers, equipment (including, but not limited to, all equipment for the generation or distribution of air, water, heat, electricity, light, fuel or refrigeration, for ventilating or air conditioning purposes, for sanitary or drainage purposes, or for the removal of dust, refuse or garbage), partitions, appliances, ranges" refrigerators, cabinets, laundry equipment, radios, televisions, awnings, window shades, venetian blinds, drapes and drapery rods and brackets, screens, carpeting and other floor coverings, furnishings, games and recreational and swimming pool equipment, incinerators, vehicles and accessories, tools, jettings and parts, and all other personal property of every kind and description;
- (d) all governmental permits relating to construction, all names under or by which such Real Property or any improvements thereon may at any time be operated or known, and all rights to carry on business under any such names or any variant thereof, and all trademarks, trade names, patents pending and goodwill;
- (e) all water stock relating to such Real Property, all shares of stock or other evidence of ownership of any part of such Real Property that is owned by Grantor in common with others, and all documents of membership in any owners' or members' association or similar group having responsibility for managing or operating any part of such Real Property;
- (f) all proceeds and claims arising on account of any damage to or taking of such Real Property, or any improvements thereon, or any part thereof, and all causes of action and recoveries for any loss or diminution in the value of such Real Property or improvements;
- (g) all plans and specifications prepared for construction of improvements on such Real Property, and all studies, data and drawings related thereto; and also all contracts and agreements of Grantor relating to the aforesaid plans and specifications, or to the aforesaid studies, data and drawings, or to the construction of improvements on such Real Property;
- (h) all sales agreements, deposit receipts, escrow agreements and other ancillary documents and agreements entered into with respect to the sale to any purchasers of any part of such Real Property, or any buildings or structures on such Real Property, together with all deposits and other proceeds of the sale thereof;
- (i) all damages, royalties and revenue of every kind, nature and description whatsoever that Grantor may be entitled to receive from any person or entity owning or having or hereafter acquiring a right to the oil, gas or mineral rights and reservations of such Real Property;
- (j) all licenses (including, but not limited to, any liquor licenses, operating licenses or similar matters), contracts, management contracts or agreements, franchise agreements, governmental permits, authorities or certificates required or used in connection with the ownership of, or the operation or maintenance of, the improvements on such Real Property;
- (k) all substitutions, accessions, additions and replacements to any of the foregoing; and
- (l) all proceeds of any of the foregoing, including (but not limited to) all proceeds of voluntary or involuntary disposition or claim respecting any thereof (whether pursuant to judgment, condemnation award or otherwise), and all goods, documents, general intangibles, chattel paper and accounts, wherever located, acquired with cash proceeds of any of the foregoing, or the proceeds thereof.

RIDER TO DEED OF TRUST, FIXTURE FILING,
ASSIGNMENT OF RENTS, AND SECURITY AGREEMENT
(ENVIRONMENTAL COMPLIANCE)

This Rider is attached to and made a part of the Deed of Trust, Fixture Filing, Assignment of Rents, and Security Agreement dated **March 19, 2014** (the "Deed of Trust") executed by **Washburn Way Industrial Park LLC** ("Borrower"), naming **First Republic Bank** (the "Lender"), as beneficiary, and encumbering the real property described in the Deed of Trust.

For valuable consideration, the Deed of Trust is amended by adding the following new Article 8:

ARTICLE 8

ENVIRONMENTAL COMPLIANCE

8.1 Certain Definitions. For purposes of this Rider, the following terms shall have the following definitions:

(a) **Governmental Authority.** "Governmental Authority" means, collectively, (1) the United States; (2) the state, county, city, and any other political subdivision in which the Property is located; (3) all other governmental or quasi-governmental authorities, boards, bureaus, agencies, commissions, departments, administrative tribunals, and other instrumentalities or authorities; and (4) all judicial authorities and public utilities having or exercising jurisdiction over Borrower or the Property.

(b) **Hazardous Substance.** "Hazardous Substance" means any:

(1) Substance, product, waste or other material of any nature whatsoever which is or becomes listed, regulated, or addressed pursuant to any or all of the following statutes and regulations, as the same may be amended from time to time:

[A] The Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Sections 9601 et seq. ("CERCLA");

[B] The Hazardous Materials Transportation Act, 49 U.S.C. Sections 1801, et seq.;

[C] The Resource Conservation and Recovery Act, 42 U.S.C. Sections 6901, et seq., ("RCRA");

[D] The Toxic Substances Control Act, 15 U.S.C. Sections 2601, et seq.;

[E] The Clean Water Act, 33 U.S.C. Sections 1251, et seq.;

[F] All other existing and future federal, state and local laws, ordinances, rules, regulations, orders, requirements, and decrees regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material;

(2) Any substance, product, waste or other material of any nature whatsoever which may give rise to liability [1] under any of the statutes or regulations described in

REV. DATE 3/01

Loan Number: 27-518087-2

Obligor No.: 021 - 0399056

clauses [A] through [F] of Section 8.1(b)(1); [2] under any statutory or common law theory, including negligence, trespass, intentional tort, nuisance or strict liability; or [3] under any reported decisions of any state or federal court;

(3) Petroleum, petroleum products and by-products, gasoline or crude oil, other than petroleum and petroleum products contained within regularly operated motor vehicles; and

(4) Asbestos or asbestos containing materials.

(c) **Hazardous Substance Laws.** "Hazardous Substance Laws" means all existing and future laws, ordinances, rules, regulations, orders and requirements of all Governmental Authorities (including the statutes and regulations identified in Section 8.1(b)(1) above and all licenses, permits, plans and approvals granted or issued under or pursuant to such statutes and regulations) relating to any or all of the following:

(1) Any Hazardous Substance, including the use, storage, generation, production, treatment, disposal, handling, release, discharge, transportation, repair, cleanup, remediation, removal or decontamination of any Hazardous Substance; and

(2) Industrial hygiene or the environmental conditions in, on, under or about the Property or any Surrounding Property, including soil, air, and groundwater conditions.

(d) **Indemnified Parties.** "Indemnified Parties" means the Lender and its Loan participants, and each of them, and each of their respective officers, directors, agents, attorneys, employees, representatives, shareholders, parent companies, subsidiaries, affiliates, successors and assigns.

(e) **Hazardous Substance Claims and Losses.** "Hazardous Substance Claims and Losses" means all claims, demands, damages (including special and consequential damages), liabilities, actions, causes of action, legal proceedings, administrative proceedings, suits, injuries, costs, losses, debts, liens, interest, fines, charges, penalties and expenses (including attorneys', accountants', consultants', and expert witness fees and costs) of every kind and nature (all of the foregoing are referred to collectively as the "Claims and Losses") which directly or indirectly arise out of or relate to any or all of the following, but only to the extent such Claims and Losses are incurred or suffered by any of the Indemnified Parties or are asserted against any or all of the Indemnified Parties prior to the Lien Termination Date:

(1) Any breach by Borrower of any representation, warranty or obligation contained in the Deed of Trust relating to Hazardous Substances;

(2) The existence, presence, use, storage, generation, production, treatment, disposal, or handling of any Hazardous Substance in, on, or under the Property, whether caused by Borrower or any other Person, including any prior owner, Tenant, or occupant of the Property;

(3) The release, discharge, or transport of any Hazardous Substance onto or from the Property, including contamination of any Surrounding Property from the Property or any natural resources (including groundwater), whether caused by Borrower or any other Person, including any prior owner, Tenant, or occupant of the Property;

(4) The violation of any Hazardous Substance Laws, whether by Borrower or any other Person, including any prior owner, Tenant, or occupant of the Property; or

(5) Any repair, cleanup, remediation, removal, closure, or decontamination activity relating to any Hazardous Substance existing in, on, or under the Property, including any

preparation for and investigation, testing, and monitoring relating to any such activity, whether or not such activity is undertaken or required as a result of any requirement of any Governmental Authority; or

(6) Any personal injury, death, or property damage resulting from or relating to any or all of the matters described in clauses (1) through (5) above.

(f) **Lien Termination Date.** "Lien Termination Date" means the earlier to occur of the following dates: (a) the date on which the Lender or any other Person acquires title to all or part of the Property as a result of a foreclosure or deed in lieu of foreclosure under the Deed of Trust; or (b) the date on which Lender reconveys the Property under the Deed of Trust.

(g) **Surrounding Property.** "Surrounding Property" means all real property which is located adjacent to or within two thousand (2,000) feet of the Property.

8.2 Compliance with Hazardous Substance Laws. Borrower shall comply and cause the Property to comply with all Hazardous Substance Laws. Without limiting the generality of the preceding sentence, Borrower shall not cause or permit (a) the existence, presence, use, storage, generation, production, treatment, disposal, or handling of any Hazardous Substance in, on, under or about the Property, whether such activities are conducted by Borrower or any other Person, including any Tenant or occupant of the Property, including the installation of any underground storage tanks or facilities for the deposit or storage of any Hazardous Substances; or (b) the release, discharge, or transport of any Hazardous Substance onto or from the Property, including the contamination of any Surrounding Property or any natural resources, including groundwater. All lease agreements, if any, entered into by Borrower with respect to the Property shall contain a provision prohibiting the Tenant under such lease from conducting any of the activities described in clauses (a) and (b) of this Section 8.2. Notwithstanding anything to the contrary contained in this Section, nothing contained in this Section shall be deemed to prohibit the use or existence on the Property of any or all of the following (collectively, the "Permitted Substances"): (1) gasoline, motor oil, or lubricants contained within vehicles or machinery operated on the Property in a regular and customary manner and in compliance with all applicable Hazardous Substance Laws; and (2) general office supplies and products, cleaning supplies and products, and other commonly used supplies and products [A] which are customarily used in the ordinary course of business by Borrower or by Tenants under and in compliance with Leases that either do not require Lender's approval under the terms of the Loan Documents or which have been approved by Lender in accordance with the Loan Documents (collectively, the "Approved Leases"); [B] which are used in the manner for which they were designed; [C] which are used in such amounts as may be normal and prudent for the business operations conducted on the Property pursuant to the Approved Leases; and [D] which are handled, stored and disposed of in compliance with all applicable Hazardous Substance Laws. Notwithstanding anything to the contrary contained in this Rider, the references to the term "Hazardous Substances" in this Rider shall not be deemed to include the Permitted Substances.

8.3 Environmental Assessment. Within forty-five (45) days after the Lender's written request to Borrower from time to time, Borrower shall cause to be prepared and delivered to the Lender, at Borrower's expense, an environmental site assessment and report for the Property, or an update of any such environmental site assessment and report which has previously been prepared by or for Borrower, prepared by a qualified, state-registered, professional environmental auditor reasonably acceptable to the Lender (the "Assessment Report"). Following the closing of the Loan, the Lender may only request an Assessment Report following the occurrence and during the continuance of an Event of Default under the Deed of Trust or where the Lender has learned of or reasonably suspects (a) the existence, presence, use, storage, handling, generation, production, treatment, disposal or handling of any Hazardous Substance in, on, under or about the Property; (b) the release, discharge or transport of any Hazardous Substance onto or from the Property; or (c) the threatened release, discharge, or transport of any Hazardous Substance onto or from the Property.

8.4 Contents of Assessment Report. If specifically requested by the Lender, each Assessment Report shall include the following information: (a) a description of the presence, character, location or amount of Hazardous Substances in, on, under or about the Property or any Surrounding

Property; (b) a review and audit of all books, records, permits, notices, citations, orders and other data and information in the possession or control of Borrower relating to Hazardous Substances in, on, under or about the Property or any Surrounding Property, including historical data and information (if such data and information is not covered in any prior Assessment Report received by the Lender); (c) a review and report on any records or listings of any Governmental Authority concerning Hazardous Substances in, on, under or about the Property or any Surrounding Property; (d) an investigation and report on the history of ownership and use of the Property or any Surrounding Property, unless covered in any prior Assessment Report received by the Lender; (e) a report of interviews with the current Tenants and occupants, if any, of the Property concerning their use of the Property; (f) an evaluation of the likelihood of any soil or groundwater contamination resulting from any Hazardous Substances in, on, under or about the Property or any Surrounding Property; and (g) such other information or recommendations as the Lender may reasonably require.

8.5 Remedial Actions by Borrower. If the existence, presence, use, storage, generation, production, treatment, disposal, or handling of any Hazardous Substance in, on, under or about the Property, or the release, discharge, or transport of any Hazardous Substance onto or from the Property (a) gives rise to or threatens to give rise to any Hazardous Substance Claims and Losses; or (b) causes or threatens to cause a significant public health effect, then in any of such circumstances, Borrower shall, subject to Section 8.9 below, promptly commence and diligently prosecute all actions and proceedings which are reasonably necessary or appropriate (i) to repair, cleanup, remediate, and decontaminate the Property and any Surrounding Property (if the presence of Hazardous Substances in, on, or under the Surrounding Property was caused by a release by Borrower or any of its agents or from the Property) with respect to such Hazardous Substances and remove such Hazardous Substances therefrom; (ii) to mitigate any exposure to liability by Borrower or the Lender with respect to such Hazardous Substances; and (iii) to preserve, protect, and maintain the value of the Property, whether or not any or all of the actions described in clauses (i) through (iii) of this Section are required by any Hazardous Substance Law or any Governmental Authority.

8.6 Indemnity. Borrower shall indemnify and hold the Lender and the other Indemnified Parties harmless from and against any and all Hazardous Substance Claims and Losses. The Indemnified Parties' right to indemnification under this Section shall not directly or indirectly be limited, prejudiced, impaired or eliminated in any way by any finding or allegation that the conduct of any Indemnified Party in connection with the Hazardous Substance Claims and Losses is active, passive or subject to any other classification or that any Indemnified Party is directly or indirectly responsible under any theory of any kind, character or nature for any act or omission by Borrower or any other Person. Notwithstanding anything to the contrary contained in this Section, Borrower shall not be obligated to indemnify any Indemnified Party for any liabilities resulting from the negligence or intentional tortious conduct of such Indemnified Party, which such Indemnified Party is determined by the final judgment or a court of competent jurisdiction to have committed. All costs, fees, expenses, advances, and other amounts paid by any Indemnified Party in connection with any Hazardous Substance Claims and Losses (a) shall be payable by Borrower to such Indemnified Party on such Indemnified Party's demand; and (b) shall bear interest from the date of expenditure by such Indemnified Party at the same rate of interest applicable to principal under the Note. Notwithstanding anything to the contrary contained in this Deed of Trust, Borrower's obligations, representations and warranties under this Article 8 shall survive and remain effective following the repayment of the Obligations, the reconveyance of the Property under this Deed of Trust, and any foreclosure, deed in lieu of foreclosure, or similar proceeding through which Lender or any other Person obtains title to the Property. Without limiting any of the terms of the Loan Documents, each of the Indemnified Parties, in its sole and absolute discretion, (i) shall have the right to select, retain and direct attorneys, accountants, consultants, and experts acceptable to such Indemnified Party to represent or advise it in connection with any of the Hazardous Substance Claims and Losses, and all reasonable costs, fees expenses and advances made or incurred by such Indemnified Party in connection therewith shall be deemed to be included in the Hazardous Substance Claims and Losses; and (ii) shall have the right to settle, compromise, adjust, and pay any or all of the Hazardous Substance Claims and Losses asserted against or incurred or suffered by it for such amounts and on such terms as the Indemnified Party may reasonably and in good faith determine; provided, however, that as long as Borrower is complying with its obligations to indemnify the Indemnified Parties with respect to the costs, fees, and

expenses of defending against the Hazardous Substance Claims and Losses, Lender shall not enter into such settlement, compromise or adjustment without Borrower's written consent, which consent shall not be unreasonably withheld or delayed. Nothing contained in this Deed of Trust shall be deemed to obligate any Indemnified Party to pay any Hazardous Substance Claims and Losses.

8.7 No Impairment of Borrower's Indemnification Obligations. Borrower's indemnification obligations under Section 8.6 above shall not be impaired, diminished, or otherwise affected in any way as a result of any information, data, documents, or notice given to or received or obtained by any Indemnified Party regarding or relating to the release, threatened release, presence, existence, character, or magnitude of any Hazardous Substances in, on, under or about the Property or any Surrounding Property. No Indemnified Party shall be deemed to have permitted, caused, contributed to, or acquiesced in any release as a result of the fact that such Indemnified Party had actual or constructive notice or knowledge of such release. If Borrower consists of more than one Person, each Person who enters into this Deed of Trust as Borrower agrees that (a) it shall have no right of subrogation or contribution (whether under CERCLA or otherwise) against any other Borrower unless and until all indemnification obligations of such Person under Section 8.6 above to the Lender have been paid or satisfied in full; and (b) if and to the extent that the waiver of its rights of subrogation and contribution under this Section is found by a court of competent jurisdiction to be void, voidable or unenforceable for any reason, any rights of subrogation or contribution that such Person may have shall be junior and subordinate to the Indemnified Parties' rights against each Borrower under this Deed of Trust.

8.8 Notices. Promptly upon receipt by Borrower, Borrower shall deliver complete and accurate copies of all notices, correspondence, and information which Borrower receives from or forwards to any Governmental Authority regarding (i) any Hazardous Substance in, on, under or about the Property or the Surrounding Property; or (ii) any actions instituted, contemplated, or threatened by any such Governmental Authority concerning any Hazardous Substance which affects or may affect the Property or any Surrounding Property. Borrower shall promptly notify the Lender in writing of (a) any information that Borrower obtains regarding any Hazardous Substance in, on, under or about the Property or any Surrounding Property; (b) any information that Borrower obtains regarding the release, discharge, or transport of any Hazardous Substance onto or from the Property or any Surrounding Property; (c) any Hazardous Substance Claims and Losses of which Borrower is aware; (d) any occurrence or condition on any Surrounding Property that might cause the Property to be classified as "border-zone property" under the provisions of Oregon Health and Safety Code, or any regulation adopted in accordance therewith, or otherwise to be subject to any restrictions on the ownership, use, occupancy, or transferability of the Property under any Hazardous Substance Law. Without limiting Section 2.24 of the Deed of Trust, within five (5) business days after the Lender's request, Borrower, at its expense, shall provide the Lender with complete and accurate copies of all Books and Records relating to Hazardous Substances in, on, under or about the Property or any Surrounding Property which may be requested by the Lender.

8.9 Notice to Lender of Remedial Actions. Not less than thirty (30) days prior to (a) taking any action in response to the existence, presence, use, storage, generation, production, treatment, disposal, or handling of any Hazardous Substance in, on, under or about the Property or any Surrounding Property, or to the release, discharge, or transport of any Hazardous Substance onto or from the Property; or (b) entering into any settlement agreement, consent decree, or other compromise or agreement regarding any Hazardous Substance Claims and Losses (such agreements and decrees are referred to collectively as "Hazardous Substance Agreements"), Borrower shall provide the Lender with a written notice (the "Remediation Notice") describing in reasonable detail the action proposed to be taken by Borrower or the nature of the Hazardous Substance Agreement to be entered into by Borrower as described in clauses (a) and (b) of this Section. The Lender, at its option, shall have the right to notify Borrower of any objections which the Lender has with respect to any matter described in the Remediation Notice. In the event of any such objection by the Lender, Borrower (i) shall not take the actions described in the Remediation Notice as to which the Lender has reasonably objected; and (ii) shall take such actions as may be reasonably required by the Lender to address and resolve the Lender's objections. If the Lender fails to give Borrower written notice of any such objections by the Lender within twenty (20) days after the Lender's receipt of the Remediation Notice, Borrower may proceed to take the actions described in the Remediation Notice; provided, however, that neither the Lender's failure to object, in

whole or in part, to any proposed action described in any Remediation Notice, nor any communication between the Lender and Borrower relating to any such proposed action, shall constitute or be construed as the Lender's approval of any such actions. Borrower shall have the sole responsibility for all aspects of Borrower's business and the development, use, ownership, operation, maintenance, and repair of the Property, including [1] the suitability and adequacy of any proposed actions described in any Remediation Notice; and [2] the suitability and adequacy of any other action taken by Borrower with respect to the existence, presence, use, storage, generation, production, treatment, disposal, or handling of any Hazardous Substance in, on, under or about the Property or any Surrounding Property or the release, discharge, or transport of any Hazardous Substance onto or from the Property. Without limiting any of the terms of the Loan Documents, Borrower agrees that the Lender shall not be directly or indirectly liable or responsible in any way or under any circumstances to Borrower or any other Person for any or all of the matters described in clauses (a) and (b) of this Section. Borrower shall not be required to provide the Lender with a Remediation Notice pursuant to this Section if Borrower reasonably determines that immediate action is reasonably required in connection with any matter described in clauses (a) or (b) of this Section and it is not practical to give the Lender the Remediation Notice prior to taking such action. Under such circumstances, Borrower shall provide the Lender with written notice of any such action taken by Borrower as soon as reasonably practicable. If Borrower breaches any its obligations under this Article 8, the Lender, at its option and its sole and absolute discretion, but without any obligation whatsoever to do so, may enter upon the Property and take any or all actions which Borrower was obligated to take and which the Lender reasonably determines to be necessary or appropriate [A] to repair, cleanup, remediate, or decontaminate the Property and any Surrounding Property with respect to any Hazardous Substances; and [B] to mitigate any exposure to Hazardous Substance Claims and Losses by the Lender with respect to any Hazardous Substances; and [C] to preserve, protect, and maintain the value of the Property, whether or not any or all of the actions described in clauses [A] through [C] of this Section are required by any Hazardous Substance Law or any Governmental Authority.

8.10 Defense of Actions and Protection of Security by Lender. Whether or not an Event of Default has occurred, the Lender shall have the right, but not the obligation, to appear in and defend any action or proceeding, whether commenced by or against Borrower or any other Person, relating to any Hazardous Substance Claims and Losses. The Lender shall have the right to incur and pay all reasonable costs, fees, expenses and liabilities that the Lender determines to be necessary or appropriate in connection with any such action or proceeding, and all such reasonable costs, fees, expenses and liabilities incurred or paid by the Lender (a) shall be payable by Borrower to the Lender on the Lender's demand; (b) shall constitute additional indebtedness of Borrower to the Lender; and (c) shall bear interest from the date of expenditure at the rate of interest applicable to principal under the Note. Nothing contained in this Deed of Trust shall be deemed to obligate the Lender to make any appearance in or defend any action or proceeding.

8.11 Inspection; Appointment of Receiver. The Lender, acting directly through its authorized agents or through a court-appointed receiver, shall have the right to enter upon and inspect the Property for the purpose of determining the existence, character, and magnitude of any Hazardous Substances in, on, under, or about the Property or any Surrounding Property. Such entry by the Lender shall be made during normal business hours and upon not less than two (2) business days prior notice by the Lender to Borrower, except when the Lender in good faith determines that an emergency exists, in which case the Lender shall have the right to enter upon the Property without notice and at such different times as the Lender in good faith determines may be necessary or appropriate for the protection of the Lender's interests. Whether or not the Lender has elected to accelerate any or all of the Obligations, and regardless of whether or not an Event of Default exists, the Lender shall have the absolute and unconditional right to apply to any court of competent jurisdiction and obtain the appointment of a receiver or receivers to enforce the Lender's inspection rights relating to Hazardous Substances as authorized by Oregon law. If the Lender obtains the appointment of a receiver under any of the terms of this Deed of Trust or applicable law, Lender, in its sole and absolute discretion, shall have the right to seek and obtain a court order authorizing the receiver (a) to operate and maintain the Property, take custody of all Rents and Profits and use and apply the Rents and Profits in order to repair, cleanup, remediate, and decontaminate the Property with respect to any Hazardous Substances, and bring the Property into compliance with Hazardous Substance Laws; (b) to take any other action necessary or appropriate to

ensure the Property's compliance with Hazardous Substance Laws, including the retention of consultants and contractors and negotiations with Governmental Authorities; and (c) to incur such other obligations and take such other actions as are ordinarily incurred by owners of real property, without any personal liability on the part of the receiver. The Lender's rights of inspection under this Section shall be superior to any rights in the Property granted by Borrower to any third Person, and all Tenants of the Property shall be deemed to have acquired their interests in the Property subject to Lender's rights under this Section. The Lender shall have no obligation or duty of any kind to enter on or inspect the Property or to examine or review any of Borrower's Books and Records relating to any Hazardous Substances. All such inspections and reviews by the Lender, including the Lender's review of any Assessment Report or proposed plan of testing, monitoring, cleanup or remediation, shall be for the Lender's sole benefit and not for the benefit of Borrower or any other Person. No inspection of the Property by the Lender shall constitute or be construed as a representation or determination by the Lender that the Property complies with any Hazardous Substance Laws or that Hazardous Substances are or are not present in, on, under, or about the Property or any Surrounding Property. All information prepared by or for the Lender in connection with the exercise of its rights under this Deed of Trust shall at all times be and remain the Lender's property, and the Lender shall have no obligation to disclose or otherwise make such information available to Borrower or any other Person, except as otherwise required by applicable law.

8.12 Environmental Provisions. For purposes of this Deed of Trust, the term "Environmental Provisions" means, collectively, (a) all of the terms of this Article 8; and (b) all other representations, warranties, indemnities, promises and covenants of Borrower contained in any or all of the Loan Documents relating to the existence, location, nature, use, generation, manufacture, storage, disposal, handling, or past, present, or future release, or threatened release, of any Hazardous Substances into, onto, beneath, or from the Property, or to past, present, or future compliance with any Hazardous Substance Laws. All Environmental Provisions contained in the Loan Documents shall be deemed to constitute "environmental provisions" within the meaning of Oregon Code of Civil Procedure.

8.13 Lender's Right to Bring Separate Actions to Enforce Environmental Provisions. Without limiting any of the terms of the Loan Documents, Borrower agrees that the Lender and the other Indemnified Parties shall each have the right to commence and prosecute one or more separate actions (a) for Borrower's breach of any Environmental Provisions; (b) for the recovery of damages based upon any such breach; (c) for enforcement of any of the Environmental Provisions, including Borrower's obligation to indemnify the Indemnified Parties with respect to Hazardous Substance Claims and Losses; and (d) for injunctive relief enforcing any or all of the Environmental Provisions, including an action in accordance with the provisions of Oregon Code. Borrower agrees that Lender shall have the right to bring one or more actions under this Section (i) without acceleration of the Obligations or commencement of foreclosure proceedings under this Deed of Trust; and (ii) whether or not Borrower is in default under the Note and whether or not any other Event of Default exists or has been declared by the Lender.

8.14 Waiver of Lien at Lender's Sole Option. Upon the occurrence of an Event of Default, Lender, at its option and in its sole and absolute discretion, but without any obligation whatsoever to do so, shall have the right (a) to waive its lien against all or part of the Property, to the extent such property is environmentally impaired; and (b) to exercise any and all rights and remedies of an unsecured creditor against Borrower and all of Borrower's assets and property, including seeking an attachment order. As between Lender and Borrower, Borrower shall have the burden of proving that Borrower or any party related to Borrower (or any affiliate or agent of Borrower or any such related party) (a) did not knowingly or negligently cause or contribute to, or knowingly or willfully permit or acquiesce in, the release or threatened release of the Hazardous Substances which caused the environmental impairment of the Property. The delivery of an execution original of this Rider to Borrower constitutes a written request for information by Lender to Borrower concerning the environmental condition of the Property. Nothing contained in this Deed of Trust shall be deemed to obligate the Lender to exercise any election that the Lender may have under Oregon Code.

8.15 Arbitration at Election of Lender Regarding Environmental Impairment. If a dispute between the Lender and Borrower arises with respect to the issue of whether or not all or part of the Property is "environmentally impaired", then the Lender, at its option and in its sole and absolute

discretion, may elect to have such dispute resolved and settled by arbitration on the following terms and conditions:

(a) **American Arbitration Association Rules.** The arbitration shall be determined by three (3) arbitrators (the "Arbitrators") in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and judgment upon the decision rendered by the Arbitrators in such proceeding may be entered in any court of competent jurisdiction.

(b) **Procedure.** In the arbitration proceeding, or any successor or amended statute or law containing similar provisions, shall be applicable. The judgment upon the decision rendered in any such arbitration shall be final and binding on the parties. The Arbitrators shall use their reasonable efforts to render a decision in such arbitration proceeding as expeditiously as possible and, in any event, within ninety (90) days after written notice of intention to arbitrate has been given by the Lender to Borrower. The Arbitrators shall have the power and authority to render a decision solely with respect to the issue of whether or not the Property, or the portion thereof which is the subject of the arbitration proceeding, is "environmentally impaired". The Arbitrators shall render their decision in writing and shall cause a copy of such decision to be provided to the parties.

(c) **Costs.** All costs and expenses of any arbitration proceeding, excluding attorneys' fees, shall be shared equally by the Lender and Borrower. Each party shall bear its own attorneys' fees; provided, however, that if the Arbitrators determine that the Property is environmentally impaired under Oregon Code, Borrower shall pay all costs and expenses of the Lender in the arbitration proceeding, including attorneys' fees and costs incurred by the Lender.

(d) **Arbitration Election Held Solely by Lender.** Borrower acknowledges and agrees that the arbitration provisions contained in this Section may be invoked at the sole option and election of the Lender, and that Borrower shall have no right to require that the dispute described in this Section be submitted to arbitration. The Lender shall not be deemed to have invoked the arbitration procedure contained in this Section unless and until written notice of intention to arbitrate has been given by the Lender to Borrower.

8.16 Reimbursable Costs. Without limiting any of the terms of the Loan Documents, all costs, fees, expenses and other amounts advanced by the Lender under the terms of this ARTICLE 8 shall be deemed to constitute Reimbursable Costs under this Deed of Trust.

8.17 Assignment of Assessment Reports. Without limiting Section 1.28 of this Deed of Trust, the Property Claims that have been assigned by Borrower to the Lender under this Deed of Trust shall be deemed to include all claims, actions, causes of action, demands, liens, rights, judgments, settlements, awards, compensation and damages against any environmental consultant or third Person who prepared any Assessment Report for Borrower.

8.18 Warranties and Representations by Borrower. Borrower represents and warrants to the Lender as follows:

(a) **No Hazardous Substances.** To the best of Borrower's knowledge, (i) the Property does not contain any Hazardous Substances, and no underground storage tanks or underground deposits of Hazardous Substances are or previously have been located on the Property, except as specifically disclosed in writing by Borrower to the Lender prior to the date of this Rider (the "Rider Date"); and (ii) Borrower is in compliance with all Hazardous Substance Laws relating to the Property and the use of the Property, including those relating to disclosure to Tenants of the Property, except as specifically disclosed in writing by Borrower to the Lender prior to Rider Date. All information provided by Borrower to the Lender in any environmental questionnaire or disclosure statement requested by the Lender is accurate and complete in all respects.

(b) **No Hazardous Substance Release.** To the best of Borrower's knowledge, no Hazardous Substance is being or has been released, discharged or transported onto or from the Property, except as specifically disclosed in writing by Borrower to the Lender prior to the Rider Date;

(c) **Hazardous Substance Litigation.** To the best of Borrower's knowledge, there is no pending or threatened action or proceedings before any Governmental Authority in which any Person alleges the existence, presence, release, threat of release, placement on, under or about the Property, or the use, manufacture, handling, generation, storage, treatment, discharge, burial or disposal in, on, under or about the Property, or the transportation to or from the Property of any Hazardous Substance, except as specifically disclosed in writing by Borrower to the Lender prior to the Rider Date;

(d) **Notices from Governmental Authorities.** Borrower has not received any notice and has no knowledge or reason to believe that any Governmental Authority has determined or threatens to determine that (i) any Hazardous Substance exists or is present in, on, under or about the Property; (ii) any Hazardous Substance is being stored, generated, produced, treated, disposed of, or handled in, on, under or about the Property; or (iii) any Hazardous Substance has been or is being released, discharged, or transported onto or from the Property, except as specifically disclosed in writing by Borrower to the Lender prior to the Rider Date;

(e) **Agreements Regarding Hazardous Substances.** There have been no communications or agreements by Borrower with any Governmental Authority or any other Person, including any prior owners of the Property, relating in any way to the presence, release, threat of release, placement on, under or about the Property, or the use, manufacture, handling, generation, storage, treatment, discharge, burial or disposal in, on, under or about the Property, or the transportation to or from the Property, of any Hazardous Substance, except as specifically disclosed in writing by Borrower to the Lender prior to the Rider Date; and

(f) **Border Zone Property.** To the best of Borrower's knowledge, Borrower has not discovered and does not know of any occurrence or condition on any Surrounding Property that could cause the Property to be classified as "border zone property" under the provisions of Oregon Health and Safety Code, or any regulation adopted pursuant thereto, or that could cause the Property otherwise to be subject to any restrictions on the ownership, occupancy, transferability or use of the Property under any Hazardous Substances Law, except as specifically disclosed in writing by Borrower to the Lender prior to the Rider Date.

8.19 Continuing Warranties and Representations. For purposes of Section 8.18 above, the term "to the best of Borrower's knowledge" shall be deemed to mean to the best knowledge of Borrower after a commercially reasonable and diligent investigation, inspection, and inquiry by Borrower. The warranties and representations contained in Section 8.18 above shall constitute continuing warranties and representations by Borrower to the Lender and shall survive the recordation of the Deed of Trust and any investigation, inspection or inquiry by the Lender.

8.20 Operations and Maintenance Program. For purposes of this Section, the term "Lawful Hazardous Substances" means Hazardous Substances located in, on or under the Property, the presence of which does not violate any Hazardous Substance Laws and which are not required to be removed, remediated, abated, cleaned up, or otherwise remedied under any Hazardous Substance Laws (such as non-friable encapsulated asbestos contained in construction materials or elements of the Improvements). In the event that (i) on or before the Rider Date, Lender has approved in writing the existence of Lawful Hazardous Substances; or (ii) subsequent to the Rider Date, Borrower discovers for the first time the existence of Lawful Hazardous Substances, then (a) if and to the extent that it is commercially reasonable for Borrower to do so, Borrower shall promptly adopt and implement a commercially reasonable operations and maintenance program for the control and monitoring of such Lawful Hazardous Substances, which program shall comply with all applicable Hazardous Substance Laws and, in the case of asbestos or asbestos containing materials, lead-based paint, or where otherwise commercially reasonable, shall be prepared by a qualified, state-registered, professional environmental consultant reasonably acceptable to Lender (such program is referred to as the "O&M Program"); (b) the

O&M Program adopted by Borrower shall include, among other things, (i) notification to tenants of the Property regarding the existence of the Lawful Hazardous Substances in compliance with all applicable notification requirements under Hazardous Substance Laws; (ii) provisions for an ongoing operations and maintenance program which includes periodic reinspections and surveillance of the Lawful Hazardous Substances; (iii) measures to minimize any release of the Lawful Hazardous Substances; (iv) information and training systems and programs for Borrower's tenants and engineering and maintenance personnel; and (v) record keeping procedures by Borrower to demonstrate implementation of the O&M Program; (c) Borrower shall promulgate rules and regulations for tenants of the Property to ensure compliance with the O&M Program by such tenants, and Borrower shall incorporate such rules and regulations in all new leases and lease extensions and modifications affecting the Property; and (d) Borrower shall incorporate a form of indemnification in all new leases and lease extensions and modifications pursuant to which the tenant under each such lease indemnifies Borrower and Lender against all claims, liabilities, costs and expenses (including attorneys' fees and costs) arising out of relating to such tenant's failure to comply with the O&M Program.

Dated: **March 19, 2014.**

BORROWER:

**Washburn Way Industrial Park LLC,
an Oregon limited liability company**

By: 
Kelly Bruun,
Its: Sole Member