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Skagit County Auditor

2/3/2004 Page 1 of 16 3:33PM

AFTER RECORDING, RETURN TO:

Inger C. Brockman
Montgomery, Purdue,
Blankinship & Austin, P.L.L.C.
701 Fifth Avenue, Suite 5500
Seattle, WA 98104-7096

DEED OF TRUST AND SECURITY AGREEMENT

CHICAGO TITLE CO.

C29753

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| <p>Reference Number(s) of related document(s): N/A.</p> <p>Grantor: John W. Lipke and Terri Sommers Lipke, husband and wife</p> <p>Grantee: 1) Laurel K. O'Neil; 2) Island Title Company</p> <p>Legal Description (abbreviated): Ptn. Lot 24, RANCHO SAN JUAN DEL MAR DIV. I and TIDELANDS</p> <p>Full legal(s) on Exhibit A</p> <p>Assessor's Tax Parcel ID Number: P3972-000-024-0000</p> |
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This Deed Of Trust and Security Agreement (hereinafter referred to as the "Deed of Trust") is made as of the 2 day of February, 2004, between John W. Lipke and Terri Sommers Lipke, husband and wife, whose address is PO Box 22, Anacortes, WA 98221, hereinafter referred to as the "Grantor"; Island Title Company, hereinafter referred to as the "Trustee"; and Laurel K. O'Neil, an unmarried individual, whose address is 2719 West Galer Street, Seattle, WA 98199, hereinafter referred to as "Beneficiary."

1. **GRANTING CLAUSE.** Grantor, in consideration of the indebtedness herein recited and the trust herein created, irrevocably

grants, bargains, sells, conveys and assigns to Trustee, in trust, with power of sale, all of Grantor's Sixty percent (70%) tenancy in common interest in that certain property located in Island County, State of Washington, together with all after-acquired title of the Grantor therein, which property is legally described on the attached Exhibit A (which property shall be hereinafter referred to as the "above described property," and the above described property together with all other property described in this Section shall be hereinafter referred to as the "Property");

TOGETHER WITH all tenements, hereditaments, rights-of-way, easements, appendages and appurtenances belonging or appertaining to the above described property including, without limitation, all of the right, title and interest of Grantor in and to any avenues, streets, ways, alleys, vaults, strips or gores of land adjoining the above described property, and all claims or demands of Grantor either in law or in equity in possession or expectancy of, in, and to the above described property;

AND TOGETHER WITH all buildings, structures and other improvements now or hereafter erected on the above described property, and all facilities, fixtures, machinery, apparatus, installations, equipment and other properties of whatsoever nature including, without limitation, all heating, ventilating, air conditioning, plumbing and electrical equipment, all elevators and escalators, all sprinkler systems, all engines and motors, all lighting, laundry, cleaning, fire prevention and fire extinguishing equipment, all ducts and compressors, all refrigerators, stoves and other appliances, attached cabinets, partitions, rugs, carpets and draperies, all building materials and supplies, and all construction forms and equipment, all inventory, supplies and equipment used now or hereafter located in or used or procured for use in connection with the Property, or any part thereof, it being the intention of the parties that all property of the character hereinabove described which is now owned or hereafter acquired by Grantor and which is affixed or attached to or used in connection with the Property, or any part thereof or improvement thereon, shall be covered by and subject to the lien of this Deed of Trust, together with all contracts, agreements, permits, plans, specifications, drawings, surveys, engineering reports and other work products relating to the construction of any existing or future improvements to the Property, or any part thereof, any and all rights of Grantor in, to or under any architect's contracts or construction contracts relating to the construction of the existing or any future improvements on the Property, or any part thereof, and any performance and/or payment bonds issued in connection therewith;

AND TOGETHER WITH any and all rights of Grantor, without limitation, to make claim for, collect, receive and receipt for any and all rents, income, revenues, issues, royalties, and profits, including mineral, oil



and gas rights and profits, insurance proceeds, condemnation awards and other monies, payable or receivable from or on account of any of the Property, or any part thereof, including interest thereon, or to enforce all other provisions of any other agreement (including those described above) affecting or relating to any of the Property, to bring any suit in equity, action at law or other proceeding for the collection of such moneys or for the specific or other enforcement of any such agreement, award or judgment, in the name of the Grantor or otherwise, and to do any and all things which Grantor is or may be or becomes entitled to do with respect thereto, provided however, that no obligation of Grantor under the provision or of any such agreements, awards or judgments shall be impaired or diminished by virtue hereof, nor shall any such obligation be imposed upon Trustee or Beneficiary;

AND TOGETHER WITH all permits, permit applications, environmental statements, traffic impact studies, soils samples and analyses, environmental and/or toxic and hazardous waste reports and/or investigations, project pro formas, loan applications, architectural drawings and specifications, structural studies, construction contracts, utility applications, demographic studies, legal work, and all other studies, reports or plans prepared by or for Grantor with respect to the above described property;

2. **OBLIGATIONS SECURED.** This Deed of Trust is given to secure to Beneficiary (a) the repayment of the indebtedness evidenced by the Promissory Note made by Grantor of even date, which Promissory Note shall be hereinafter referred to as the "Note," in the principal sum of One Hundred Thousand Dollars (\$100,000), or such lesser amount as has been advanced to Grantor, with such indebtedness, if not sooner paid, due and payable as provided in the Note, and all renewals, extensions and modifications thereof; (b) the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Deed of Trust; and (c) the performance of the covenants and agreements of Grantor herein contained.

3. **PAYMENT OF PRINCIPAL AND INTEREST.** Grantor shall promptly pay when due the principal of and interest on the indebtedness evidenced by the Note and all other sums secured by this Deed of Trust.

4. **APPLICATION OF PAYMENTS.** Unless applicable law provides otherwise, all payments received by Beneficiary from Grantor under the Note or this Deed of Trust shall be applied by Beneficiary in the following order of priority: (i) amounts payable to Beneficiary by Grantor under this Deed of Trust; (ii) interest payable on the Note; (iii) principal of the Note; (iv) interest payable on advances made pursuant to this Deed of Trust; (v) principal of advances made pursuant to Deed of Trust; and (vi)



any other sums secured by this Deed of Trust in such order as Beneficiary, at Beneficiary's option, may determine.

5. **CHARGES; LIENS.** Grantor shall pay directly to the payee, when due all water and sewer rates, rents, taxes, assessments, premiums, and other governmental impositions which do or could, with the passage of time, constitute a lien on the Property ("Impositions"). If Beneficiary requests in writing, Grantor shall promptly furnish to Beneficiary a listing of any amount due or to become due on any of the foregoing. Grantor shall promptly discharge any Imposition which has or may have, priority over or equality with, the lien of this Deed of Trust, and Grantor shall pay, when due, the claims of all persons supplying labor or materials to or in connection with the Property. Without Beneficiary's prior written permission, Grantor shall not allow any lien inferior to this Deed of Trust to be perfected against the Property. Grantor shall not be in immediate default if a lien is filed against the Property, so long as Grantor promptly contests such claim in good faith and arranges to provide for sufficient collateral to cover any potential losses to Beneficiary.

6. **REQUIRED HAZARD INSURANCE.** At all times, Grantor agrees to keep all buildings now or hereafter erected on the property described herein continuously insured against loss by fire or other hazards in an amount not less than the total debt secured by this Deed of Trust. All policies shall be held by the Beneficiary, and be in such companies as the Beneficiary may approve and have loss payable first to the Beneficiary, as its interest may appear, and then to the Grantor. The amount collected under any insurance policy may be applied upon any indebtedness hereby secured in such order as the Beneficiary shall determine. Such application by the Beneficiary shall not cause discontinuance of any proceedings to foreclose this Deed of Trust. In the event of foreclosure, all rights of the Grantor in insurance policies then in force shall pass to the purchaser at the foreclosure sale.

7. **PRESERVATION AND MAINTENANCE OF PROPERTY.** Grantor (a) shall not commit waste or permit impairment or deterioration of the Property, (b) shall not abandon the Property, (c) shall restore or repair promptly and in a good and workmanlike manner all or any part of the Property to the equivalent of its original condition, or such other condition as Beneficiary may approve in writing, in the event of any damage, injury or loss thereto, whether or not insurance proceeds are available to cover in whole or in part the costs of such restoration or repair, (d) shall keep the Property, including improvements, fixtures, equipment, machinery and appliances thereon in good repair and shall replace fixtures, equipment, machinery and appliances on the Property when necessary to keep such items in good repair, (e) shall comply with all laws, ordinances, regulations and requirements of any governmental body applicable to the Property, and (f) shall give notice in writing to



Beneficiary of and, unless otherwise directed in writing by Beneficiary, appear in and defend any action or proceeding purporting to affect the Property, the security of this Deed of Trust or the rights or powers of Beneficiary. Neither Grantor nor any tenant or other person shall remove, demolish or alter any improvement now existing or hereafter erected on the Property or any fixture, equipment, machinery or appliance in or on the Property except when incident to the replacement of fixtures, equipment, machinery and appliances with items of like kind.

8. **USE OF PROPERTY.** Unless required by applicable law or unless Beneficiary has otherwise agreed in writing, Grantor shall not allow changes in the use for which all or any part of the Property was intended at the time this Deed of Trust was executed. Grantor shall not initiate or approve a change in the zoning classification of the Property without Beneficiary's prior written consent.

9. **PROTECTION OF BENEFICIARY'S SECURITY.** If Grantor fails to perform the covenants and agreements contained in this Deed of Trust, or does not reasonably respond and defend any action or proceeding commenced which affects the Property or title thereto or the interest of Beneficiary therein, including, but not limited to, eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankrupt or decedent, then Beneficiary at Beneficiary's option may make such appearances, disburse such sums and take such action as Beneficiary deems necessary, in its sole discretion, to protect Beneficiary's interest, including, but not limited to, (i) disbursement of attorney's fees, (ii) entry upon the Property to make repairs, and (iii) procurement of satisfactory insurance as provided in this Deed of Trust. Any amounts disbursed by Beneficiary pursuant to this Deed of Trust, with interest thereon, shall become additional indebtedness of Grantor secured by this Deed of Trust. Unless Grantor and Beneficiary agree to other terms of payment, such amounts shall be immediately due and payable and shall bear interest from the date of disbursement at the rate stated in the Note unless collection from Grantor of interest at such rate would be contrary to applicable law, in which event such amounts shall bear interest at the highest rate which may be collected from Grantor under applicable law. Grantor hereby covenants and agrees that Beneficiary shall be subrogated to the lien of any mortgage or other lien discharged, in whole or in part, by the indebtedness secured hereby. Nothing contained in this section shall require Beneficiary to incur any expense or take any action hereunder.

10. **INSPECTION.** Beneficiary may make or cause to be made reasonable entries upon and inspections of the Property.

11. **BOOKS AND RECORDS.** Grantor shall keep and maintain at all times at Grantor's address stated below, at the Property, or such other



place as Beneficiary may approve in writing, complete and accurate books of accounts and records adequate to reflect correctly the results of the operation of the Property and copies of all written contracts, leases and other instrument which affect the Property. Such books, records, contracts, leases and other instruments shall be subject to examination and inspection at any reasonable time by Beneficiary.

12. **CONDEMNATION.** Grantor shall promptly notify Beneficiary of any action or proceeding relating to any condemnation or other taking, whether direct or indirect, of the Property, or part thereof, and Grantor shall appear in and prosecute any such action or proceeding unless otherwise directed by Beneficiary in writing. If Grantor fails to take reasonable action, Grantor authorizes Beneficiary, at Beneficiary's option, as attorney-in-fact for Grantor, to commence, appear in and prosecute and/or defend, in Beneficiary's or Grantor's name, any action or proceeding relating to any condemnation or other taking of the Property, whether direct or indirect, and to settle or compromise any claim in connection with such condemnation or other taking. The proceeds of any award, payment or claim for damages, direct or consequential, in connection with any condemnation or other taking, whether direct or indirect, of the Property, or part thereof, or for conveyances in lieu of condemnation, are hereby assigned to and shall be paid to Beneficiary up to the amount due under the note secured by this deed of trust; any additional proceeds shall be the property of and retained by the Grantor. Grantor authorizes Beneficiary to apply such awards, payments, proceeds or damages, after the deduction of Beneficiary's expenses incurred in the collection of such amounts, at Beneficiary's option, to restoration or repair of the Property or to payment of the sums secured by this Deed of Trust, whether or not then due, in the order of application set forth in Deed of Trust, with the balance, if any, to Grantor. Unless Grantor and Beneficiary otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly installments secured by this Deed of Trust or change the amount of such installments. Grantor agrees to execute such further evidence of assignment of any awards, proceeds, damages or claims arising in connection with such condemnation or taking as Beneficiary may require.

13. **GRANTOR AND LIEN NOT RELEASED.** From time to time, Beneficiary may, at Beneficiary's sole discretion and option, without giving notice to or obtaining the consent of Grantor, Grantor's successors or assigns or of any junior lienholder or guarantors, without liability on Beneficiary's part and notwithstanding Grantor's breach of any covenant or agreement of Grantor in this Deed of Trust or any agreement secured by this Deed of Trust, extend the time for payment of said indebtedness or any part thereof, reduce the payments thereon, release anyone liable on any of said indebtedness, accept a renewal note or notes therefor,



modify the terms and time of payment of said indebtedness, release from the lien of this Deed of Trust any part of the Property, take or release other or additional security, reconvey any part of the Property, consent to any map or plan of the Property, consent to the granting of any easement, join in any extension or subordination agreement, and agree in writing with Grantor to modify the rate of interest or period of amortization of the Note or change the amount of the monthly installments payable thereunder. Any actions taken by Beneficiary pursuant to the terms of this section shall not affect the obligation of Grantor or Grantor's successors or assigns to pay the sums secured by this Deed of Trust and to observe the covenants of Grantor contained herein, shall not affect the guaranty of any person, corporation, partnership or other entity for payment of the indebtedness secured hereby, and shall not affect the lien or priority of lien hereof on the Property. Grantor shall pay Beneficiary's title insurance premiums and attorney's fees as may be incurred at Beneficiary's option, for any such action if taken at Grantor's request.

14. FORBEARANCE BY BENEFICIARY NOT A WAIVER. Any forbearance by Beneficiary in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any right or remedy. The acceptance by Beneficiary of payment of any sum secured by this Deed of Trust after the due date of such payment shall not be a waiver of Beneficiary's right to either require prompt payment when due of all other sums so secured or to declare a default for failure to make prompt payment. The procurement of insurance or the payment of taxes or other liens or charges by Beneficiary shall not be a waiver of Beneficiary's right to accelerate the maturity of the indebtedness secured by this Deed of Trust, nor shall Beneficiary's receipt of any awards, proceeds or damages under this Deed of Trust operate to cure or waive Grantor's default in payment of sums secured by this Deed of Trust.

15. UNIFORM COMMERCIAL CODE SECURITY AGREEMENT. This Deed of Trust is intended to be a security agreement pursuant to the Uniform Commercial Code for any of the items specified above as part of the Property which, under applicable law, may be subject to a security interest pursuant to the Uniform Commercial Code, and Grantor hereby grants Beneficiary a security interest in said items. Grantor agrees that Beneficiary 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 specified above as 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. In addition, 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 of this Deed of



Trust in such form as Beneficiary may require to perfect a security interest with respect to said items. Grantor shall pay all costs of filing such financing statements and any extensions, renewals, amendments and releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements Beneficiary may reasonably require. Without the prior written consent of Beneficiary, Grantor shall not create or suffer to be created pursuant to the Uniform Commercial Code any other security interest in said items, including replacements and additions thereto. Upon Grantor's breach of any covenant or agreement of Grantor contained in this Deed of Trust, including the covenants to pay when due all sums secured by this Deed of Trust, Beneficiary shall have the remedies of a secured party under the Uniform Commercial Code and, at Beneficiary's option, may also invoke the remedies provided in this Deed of Trust as to such items. In exercising any of said remedies, Beneficiary may proceed against the items of real property and any items of personal property specified above as part of the Property separately or together and in any order whatsoever, without in any way affecting the availability of Beneficiary's remedies under the Uniform Commercial Code or of the remedies provided in this Deed of Trust.

16. **REMEDIES CUMULATIVE.** Each remedy provided in this Deed of Trust is distinct and cumulative to all other rights or remedies under this Deed of Trust or afforded by law or equity, and may be exercised concurrently, independently, or successively, in any order whatsoever.

17. **ACCELERATION IN CASE OF GRANTOR'S INSOLVENCY.** If Grantor shall voluntarily file a petition under the Federal Bankruptcy Code, as such Code may from time to time be amended, or under any similar or successor Federal statute relating to bankruptcy, insolvency, arrangements or reorganizations, or under any state bankruptcy or insolvency act, or file an answer in an involuntary proceeding admitting insolvency or inability to pay debts, or if Grantor shall fail to obtain a vacation or stay of involuntary proceedings brought for the reorganization, dissolution or liquidation of Grantor, or if Grantor shall be adjudged a bankrupt, or if a trustee or receiver shall be appointed for Grantor or Grantor's property, or if the Property shall become subject to the jurisdiction of a Federal bankruptcy court or similar state court, or if Grantor shall make an assignment for the benefit of Grantor's creditors, or if there is an attachment, execution or other judicial seizure of any portion of Grantor's assets and such seizure is not discharged within 30 days, then Beneficiary may, at Beneficiary's option, declare all of the sums secured by this Deed of Trust to be immediately due and payable without prior notice to Grantor, and Beneficiary may invoke any remedies permitted in this Deed of Trust. Any attorney's fees and other expenses incurred by Beneficiary in connection with Grantor's



bankruptcy or any of the other aforesaid events shall be additional indebtedness of Grantor secured by this Deed of Trust.

18. TRANSFERS OF THE PROPERTY OR BENEFICIAL INTERESTS IN GRANTOR; NO JUNIOR ENCUMBRANCES; ASSUMPTION. In the event of a transfer of the Property or any portion thereof or any interest therein either voluntarily or by operation of law or in the event of any change of ownership of the Property regardless of form, without the prior written consent of the Beneficiary or in the further event that Grantor allows, suffers or grants any further encumbrances or security interests in the Property, the entire balance of principal and interest due hereunder shall at the option of the Beneficiary, without demand or notice, become immediately due and payable. If the Grantor seeks Beneficiary's consent to so transfer except as expressly provided herein, the Beneficiary may grant or deny such consent in its sole discretion and, if such consent is granted, it may be conditioned upon an increase in the interest rate of the loan evidenced by the Note. If consent should be given, any such transfer or encumbrance shall be subject to this Deed of Trust and any other agreement (including any amendment, modification or extension hereof) now or hereafter securing the Note, and any such transferee shall assume all obligations thereunder and agree to be bound by all provisions contained therein by assumption documentation satisfactory to the Beneficiary including, without limitation, the agreement therein, modifying the Note, to provide for an adjusted higher rate of interest. Such assumption shall not, however, release Grantor without the prior written consent of Beneficiary, and Grantor agrees to remain directly and primarily liable hereunder despite such assumption. Consent to one such transaction shall not be deemed to be a waiver of the right to require consent to future or successive transactions. As used herein, "transfer" includes the sale, agreement to sell or transfer or conveyance of the Property or any portion thereof or any interest therein, whether voluntary, involuntary or by operation of law or otherwise or the lease of all or substantially all of the Property.

19. NOTICE. Except for any notice required under applicable law to be given in another manner, (a) any notice to Grantor provided for in this Deed of Trust or in the Note shall be given by mailing such notice by United States certified mail addressed to Grantor at Grantor's address stated below or at such other address as Grantor may designate by notice to Beneficiary as provided herein, and (b) any notice to Beneficiary shall be given by United States certified mail, return receipt requested, to Beneficiary's address stated herein or to such other address as Beneficiary may designate by notice to Grantor as provided herein. Any notice provided for in this Deed of Trust or in the Note shall be deemed to have been given to Grantor or Beneficiary when given in the manner designated herein.



20. **SUCCESSORS AND ASSIGNS BOUND; JOINT AND SEVERAL LIABILITY; AGENTS; CAPTIONS.** The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Beneficiary and Grantor, subject to the provisions this Deed of Trust regarding transfers. All covenants and agreements of Grantor shall be joint and several. In exercising any rights hereunder or taking any actions provided for herein, Beneficiary may act through its employees, agents or independent contractors as authorized by Beneficiary. The captions and headings of the sections of this Deed of Trust are for convenience only and are not to be used to interpret or define the provisions hereof.

21. **GOVERNING LAW; SEVERABILITY.** This Deed of Trust shall be governed by the laws of the State of Washington. In the event that any provision of this Deed of Trust or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Deed of Trust or the Note which can be given effect without the conflicting provisions, and to this end the provisions of this Deed of Trust and the Note are declared to be severable. In the event that any applicable law limiting the amount of interest or other charges permitted to be collected from Grantor is interpreted so that any charge provided for in this Deed of Trust or in the Note, whether considered separately or together with other charges levied in connection with this Deed of Trust and the Note, violate such law, and Grantor is entitled to the benefit of such law, such charge is hereby reduced to the extent necessary to eliminate such violation. The amounts, if any, previously paid to Beneficiary in excess of the amounts payable to Beneficiary pursuant to such charges as reduced shall be applied by Beneficiary to reduce the principal of the indebtedness evidenced by the Note. For the purpose of determining whether any applicable law limiting the amount of interest or other charges permitted to be collected from Grantor has been violated, all indebtedness which is secured by this Deed of Trust or evidenced by the Note and which constitutes interest, as well as all other charges levied in connection with such indebtedness which constitute interest, shall be deemed to be allocated and spread over the stated term of the Note. Unless otherwise required by applicable law, such allocation and spreading shall be effected in such manner that the rate of interest computed thereby is uniform throughout the stated term of the Note.

22. **WAIVER OF MARSHALING.** Notwithstanding the existence or any other security interests in the Property held by Beneficiary or by any other party, Beneficiary shall have the right to determine the order in which any or all of the Property shall be subjected to the remedies provided herein. Beneficiary shall have the right to determine the order in which any or all portions of the indebtedness secured hereby are satisfied from the proceeds realized upon the exercise of the remedies provided herein. Grantor, any party who consents to this Deed of Trust



and any party who now or hereafter acquires a security interest in the Property and who has actual or constructive notice hereof hereby waives any and all right to require the marshaling of assets in connection with the exercise of any of the remedies permitted by applicable law or provided herein.

23. DEFAULT; ACCELERATION; REMEDIES.

23.1. Upon Grantor's breach of any covenant or agreement of Grantor in this Deed of Trust, including, but not limited to the covenants to pay when due any sums secured by this Deed of Trust, Beneficiary at Beneficiary's option may declare all of the sums secured by this Deed of Trust to be immediately due and payable without further demand. After giving Grantor notice of default in the manner prescribed by applicable law, Beneficiary may invoke the power of sale and any other remedies permitted by applicable law or provided herein. Grantor acknowledges that the power of sale herein granted may be exercised by Beneficiary without prior judicial hearing. Grantor has the right to bring an action to assert the non-existence of a breach or any other defense of Grantor to acceleration and sale. Beneficiary shall be entitled to collect all costs and expense incurred in pursuing such remedies, including, but not limited to, attorney's fees and costs of documentary evidence, abstracts and title reports. If Beneficiary invokes the power of sale, Beneficiary shall give written notice to Trustee of the occurrence of an event of default and of Beneficiary's election to cause the Property to be sold. Trustee and Beneficiary shall give such notices as the laws of Washington may require to Grantor and to such other persons as the laws of Washington prescribe, and after the lapse of such time as may be required by applicable law, Trustee shall sell the Property according to the laws of Washington. Trustee may sell the Property at the time and place and under the terms designated in the notice of sale in one or more parcels and in such order as Trustee may determine. Trustee may postpone sale of all or any parcel of the Property for a period or periods not exceeding those provided by law by public announcement at the time and place fixed in the notice of sale. Beneficiary or Beneficiary's designee may purchase the Property at the sale. Trustee shall deliver to the Grantor at the sale a Trustee's deed conveying the Property so sold without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all costs and expenses of the sale, including, but not limited to, Trustee's and attorney's fees and costs of title evidence; (b) to all sums secured by this Deed of Trust in such order as Beneficiary, in Beneficiary's sole discretion, directs; and



(c) the excess, if any, to the clerk of the superior court of the county in which the sale took place. In addition to the foregoing, Beneficiary may, either directly or through an agent or court-appointed receiver, and without regard to the adequacy of any security for the Note or other obligations secured by this Deed of Trust:

23.1.1. enter into such contracts and take such other action as Beneficiary deems appropriate to complete all or any part of the projects which Grantor may have undertaken on or with the Property or any other construction on the above described property (collectively, "Project") subject to such modifications and other changes in the Project or the plan of development as Beneficiary may deem appropriate;

23.1.2. make, cancel, enforce or modify leases, obtain and evict tenants, fix or modify rents and, in its own name or in the name of Grantor, otherwise conduct the business of Grantor and deal with Grantor's creditors, debtors, tenants, agents, contractors, subcontractors, architects, engineers and employees and any other persons having any relationship with Grantor, and amend any contracts between them, in any manner Beneficiary may determine;

23.1.3. endorse, in the name of Grantor, all checks, drafts and other evidences of payment relating to the Property, and receive, open and dispose of all mail addressed to Grantor and notify the postal authorities to change the address for delivery of such mail to such address as Beneficiary may designate; and

23.1.4. take such other action as Beneficiary deems appropriate to protect the security of this Trust Deed.

23.2. Upon Grantor's breach of any covenant or agreement of Grantor in this Deed of Trust, Beneficiary may require Grantor to pay to Beneficiary (or the holder of the first lien deed of trust on the Property), on the day monthly installments of principal and interest are payable under the Note and until the Note is paid in full, an amount equal to one-twelfth (1/12) of the annual premiums for the insurance required to be maintained by Grantor under this Deed of Trust and one-twelfth (1/12) of total amount of Impositions reasonably estimated to be due or become due during the succeeding twelve month period. In such event, Grantor further agrees to cause all bills, statements, or other documents relating to such premiums and 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 with Beneficiary pursuant to this Section, Beneficiary shall pay such amounts as may be due thereunder out of the funds so deposited with Beneficiary. If, at any time and for any reason, the funds deposited with Beneficiary 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. Notwithstanding the foregoing, nothing contained herein shall cause Beneficiary to be deemed a trustee of said funds or to be obligated to pay any amounts in excess of the amount of funds deposited with Beneficiary pursuant to this Section. Beneficiary shall not be obliged to pay or allow any interest on any sums held by Beneficiary pending disbursement or application hereunder. Should Grantor fail to deposit with Beneficiary sums sufficient to fully pay such premiums at least thirty (30) days before delinquency thereof, Beneficiary may, at Beneficiary's election, but without any obligation so to do, advance any amounts required to make up the deficiency, which advances, if any, shall be secured hereby and shall be repayable to Beneficiary as herein elsewhere provided or, at the option of Beneficiary, the latter may, without making any advance whatever, apply any sums held by it upon any obligation of the Grantor secured hereby. Should any default occur or exist on the part of the Grantor in the payment or performance of any of Grantor's and/or any guarantor's obligations under the terms of the Loan Instruments, Beneficiary may, at any time at Beneficiary's option, apply any sums or amounts in its hands received pursuant hereto, or as rents or income of the Property or otherwise, upon any indebtedness or obligation of the Grantor secured hereby in such manner and order as Beneficiary may elect. The receipt, use or application of any such sums paid by Grantor to Beneficiary hereunder shall not be construed to affect the maturity of any indebtedness secured by this Deed of Trust or any of the rights or powers of Beneficiary or Grantor under the terms of the Loan Instruments or any of the obligations of Grantor and/or any guarantor under this Loan Instrument.

24. **RECONVEYANCE.** Upon payment of all sums secured by this Deed of Trust, Beneficiary shall request Trustee to reconvey the Property and shall surrender this Deed of Trust and all notes evidencing indebtedness secured by this Deed of Trust to Trustee. Trustee shall reconvey the Property without warranty to the person or persons legally entitled thereto. Such person or persons shall pay Trustee's reasonable costs incurred in so reconveying the Property.

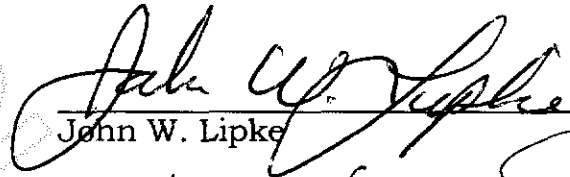
25. **SUBSTITUTE TRUSTEE.** In accordance with applicable law, Beneficiary may from time to time appoint a successor trustee to any



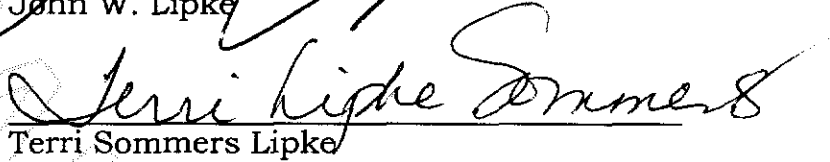
Trustee appointed hereunder who has ceased to act. Without conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred upon the Trustee herein and by applicable law.

26. **USE OF PROPERTY.** The Property is not used principally for agricultural or farming purposes.

IN WITNESS WHEREOF, Grantor has executed this Deed of Trust.



John W. Lipke



Terri Sommers Lipke



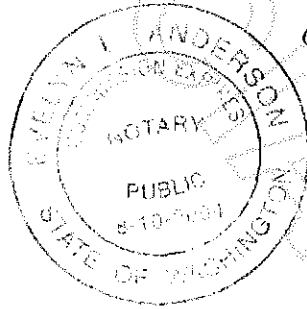
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Skagit County Auditor

2/3/2004 Page 14 of 16 3:33PM

STATE OF WASHINGTON)
COUNTY OF Skagit) ss.

I certify that I know or have satisfactory evidence that **John W. Lipke and Terri Sommers Lipke, husband and wife** are the persons who appeared before me, and said persons acknowledged that they signed this instrument and acknowledged it to be their free and voluntary act for the uses and purposes stated therein.

Dated February 2, 2004.



Evelyn L. Anderson

Name: Evelyn L. Anderson
NOTARY PUBLIC, State of Washington
My appointment expires 8-10-2004



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Skagit County Auditor

2/3/2004 Page 15 of 16 3:33PM

Exhibit A
Legal Description

Lot 24, RANCHO SAN JUAN DEL MAR SUBDIVISION NO. 1, according to the plat thereof, recorded in Volume 5 of Plats, page 27, records of Skagit County, Washington;

EXCEPT the following described tract:

Beginning at the Southwest corner of said Lot 24;

Thence South 68°35' East along the South line of said Lot 24 a distance of 187.96 feet to the Southeast corner of said Lot 24;

Thence North 58°53'07" West a distance of 73.18 feet;

Thence North 74°39'34" West a distance of 116.48 feet to the point of beginning.

Situated in Skagit County, Washington.



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Skagit County Auditor

2/3/2004 Page 16 of 16 3:33PM