



201605190090

Skagit County Auditor

\$126.00

5/19/2016 Page

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4 3:00PM

Document Title: Amended Forbearance and Credit Agreement

Reference Number:

Grantor(s):

additional grantor names on page ___

1. Robert Hayton
2. Susan Hayton

Grantee(s):

additional grantee names on page ___

1. Skagit Farmers Supply
- 2.

Abbreviated legal description:

full legal on page(s) ___

Assessor Parcel / Tax ID Number:

additional tax parcel number(s) on page ___

I, Shannon Perkes, am hereby requesting an emergency non-standard recording for an additional fee provided in RCW 36.18.010. I understand that the recording processing requirements may cover up or otherwise obscure some part of the text of the original document. Recording fee is \$73.00 for the first page, \$1.00 per page thereafter per document. In addition to the standard fee, an emergency recording fee of \$50.00 is assessed. This statement is to become part of the recorded document.

Signed Shannon Perkes

Dated 5/19/16

AMENDED FORBEARANCE AND CREDIT AGREEMENT

THIS AGREEMENT is between Skagit Farmers Supply, a Washington corporation ("Skagit Farmers") and Robert L. Hayton, Susan Hughes Hayton, and the marital community comprised thereof, Hayton Farms, Inc., a Washington corporation, Hayton's Crop Farms Inc., a Washington corporation, and Hayton's Berry Farms, Inc., a Washington corporation (collectively referred to as "Customer").

A. Customer currently owes Skagit Farmers \$187,549.73 for products and services previously purchased which was due and owing December 31, 2015 which accrues interest at the rate of 9% per annum, by agreement ("Existing Debt"). That Existing Debt is past due, and Customer desires extended terms to repay the Existing Debt. Customer also desires credit to purchase additional agronomy products, custom services, farm supplies and fuel ("Products and Services") from Skagit Farmers going forward.

B. Customer previously executed a Security Agreement in favor of Skagit Farmers on August 3, 2012, granting a deed of trust on certain real property and a security interest in certain mobile homes as security for payment of its obligations to Skagit Farmers. Customer also previously granted Skagit Farmers mortgages in a number of parcels of real property as additional security for debts owing to Skagit Farmers as part of a Forbearance and Credit Agreement dated March 21, 2013, recorded under Skagit County recording number 201303280128.

C. In 2014, Skagit Farmers paid off debt owing by Customer to Zions First National Bank in the amount of \$378,782.97, taking an assignment of Customer's promissory note in favor of Zions and the first mortgage position in real property under recording number 201405290099 (collectively "Zions' Note"). Customer's obligations under the Zions' Note calls for semi-annual payments of \$17,953.90, with the balance owing to be paid January 1, 2018. Customer acknowledges that those payments shall be paid to Skagit Farmers.

D. Skagit Farmers is willing to grant extended terms on the Existing Debt and credit for additional purchases up to \$1,000,000.00 ("New Debt"), in exchange for the execution of a Note acknowledging the Existing Debt, an agreed limit on the amount of New Debt to be incurred, the reaffirmation of the debt under the Zions Note and all existing security interests previously granted by Customer to Skagit Farmers, including the personal guarantee signed by Robert L. Hayton on May 4, 2005, and the personal guarantee signed by Robert L. Hayton and Susan Hughes Hayton on March 21, 2013, on the terms set forth below.

IN CONSIDERATION of the promises set forth herein, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Customer agrees to execute a Promissory Note in the form attached as Exhibit A hereto, for the Existing Debt.

2. Skagit Farmers reserves its right to assert statutory liens against Customer's crops and other farm proceeds, as well as crop insurance and the requirement that Skagit Farmers be identified as "loss payee" for such insurance, in addition to the rights granted under this Agreement

3. Customer hereby reaffirms the security interests previously granted by Customer to Skagit Farmers, including but not limited to the Deed of Trust dated August 3, 2012 recorded under Skagit County recording number 20120803145, the mortgages and deeds of trust identified in the Forbearance and Credit Agreement dated March 21, 2013, and the Assignment of Mortgage on the Zions Note recorded under Skagit County recording number 201405290099. Robert L. Hayton and Susan Hughes Hayton also reaffirm the Personal Guaranty they executed on March 21, 2013 in favor of Skagit Farmers.

4. Customer agrees to repay the Existing and New Debt no later than December 31, 2016, including all accrued interest and finance charges.

5. Skagit Farmers agrees to forbear collection of the Existing Debt in accordance with the promises set forth herein.

6. Skagit Farmers shall grant credit to customer for New Debt up to a total exposure in 2016 of Existing, New Debt, the Zions Note and accrued finance charges totaling no more than \$1,600,000.00. Skagit Farmers reserves the right to refuse to extend additional credit to Customer if the outstanding balance owed by Customer for New and Existing Debt exceeds \$1,600,000. Customer can repay the debt at any time, but will not be considered in default of the obligation unless it fails to pay the entire amount owing, except the Zions Note, on or before December 31, 2016. Finance charges will accrue on the New Debt at the rate of 9% *per annum*, assessed under Skagit Farmers' normal net 30 day terms. Skagit Farmers will issue monthly statements identifying the amount of New Debt outstanding.

7. In the event Customer fails to pay the entire Existing and New Debt, and accumulated finance charges and interest, by December 31, 2016, the obligations will be deemed, at the option of Skagit Farmers, in default and interest rate and finance charges will automatically increase to 18% *per annum*. Upon default, Skagit Farmers will be entitled to enforce its rights under the security interests granted by Customer.

8. The parties agree that, upon request and adequate consideration, and at the sole discretion of Skagit Farmers, one or more parcels of the real property granted to Skagit Farmers as security can be released, without jeopardizing the security interests granted in the other parcels. Except as noted, all security interests granted herein will remain in full force and effect until such time as the security interests are formally released.

9. Other than as modified by this Agreement, the terms and conditions set forth in invoices and statements, the credit application previously executed, any membership agreements, any personal guarantees, and all terms and conditions in the Promissory Note, Security Agreements and other security documents referenced herein, shall be binding on the parties.

10. In the event of a default under this Agreement, the prevailing party shall be entitled to recovery of its reasonable attorneys' fees and costs, and venue for any action regarding this Agreement shall be in Skagit County, Washington. Both parties represent that they have had the opportunity to review the terms of this Agreement with legal counsel and are authorized to execute this Agreement as set forth below.

ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT OR FOREBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.

Dated this 1st day of April, 2016.

SKAGIT FARMERS SUPPLY,
a Washington corporation

By Shannon Lerkes
Its Credit Dept.

Robert L Hayton
Robert L. Hayton

Susan Hughes-Hayton
Susan Hughes Hayton

HAYTON FARMS INC., a
Washington corporation

Robert Hayton, Pres.
By _____

HAYTON'S CROP FARMS INC., a
Washington corporation

Robert Hayton Pres.
By _____

HAYTON'S BERRY FARM, INC.,
A Washington corporation

Robert Hayton Pres.
By _____