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Skagit County Auditor

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10/7/2016 Page

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Recording Requested By and
When Recorded Mail To.

Paul O'Rear
122 Calistoga Rd. #179
Santa Rosa, CA 95409

CHICAGO TITLE

020028986

**DEED OF TRUST, ASSIGNMENT OF RENTS AND LEASES,
FIXTURE FILING AND SECURITY AGREEMENT**

GRANTOR: NWCC INVESTMENTS IX, LLC, a Washington limited liability company

- GRANTEES: (Lender)
1. PENSICO Trust Company LLC Custodian fbo Paul O'Rear IRA Account #OR032 (20.00%);
 2. Equity Trust Company Custodian FBO Jeffrey M. Hawkinson IRA (20.00%);
 3. Kenneth G. or Cheryl K. Edwards as Trustees of the Edwards Family Trust U/A dated April 2, 1986 (20.00%);
 4. Equity Trust Company Custodian FBO Laura R. Siniscalchi IRA (6.80%);
 5. Equity Trust Company Custodian FBO Ian S. Stuart IRA (8.00%);
 6. Ian S Stuart, Trustee of The Stuart Family Trust u/a Dated 9-1-2000 (5.20%);
 7. Rolf Wessman, a married man as his separate property (20.00%)

GRANTEE: FIDELITY NATIONAL TITLE INSURANCE COMPANY
(Trustee)

LEGAL DESCRIPTION: Ptn. Lot 10, Mount Vernon Acreage, Vol. 3, P. 102
The complete legal description is on Exhibit A hereto.

Assessor's Property Tax Parcel Account No.:
P53850 / 3746-000-010-0407

This DEED OF TRUST, ASSIGNMENT OF RENTS AND LEASES, FIXTURE FILING AND SECURITY AGREEMENT (this "*Deed of Trust*") dated September 30, 2016, is given by Grantor, NWCC INVESTMENTS IX, LLC, a Washington limited liability company ("*Grantor*") as grantor, whose mailing address is 1402 E. Pike St., Seattle, Washington 98122. The Trustee is FIDELITY NATIONAL TITLE INSURANCE COMPANY, whose mailing address is 600 University Street, Suite 2424, Seattle, WA 98101.

The Beneficiary is PENSICO Trust Company LLC Custodian fbo Paul O'Rear IRA Account #OR032, as to an undivided 20.00% interest; Equity Trust Company Custodian FBO Jeffrey M. Hawkinson IRA, as to an undivided 20.00% interest; Kenneth G. or Cheryl K. Edwards as Trustees of the Edwards Family Trust U/A dated April 2, 1986, as to an undivided 20.00%; Equity Trust Company Custodian FBO Laura R. Siniscalchi IRA, as to an undivided 6.80% interest; Equity Trust Company Custodian FBO Ian S. Stuart IRA, as to an undivided 8.00% interest; Ian S. Stuart, Trustee of The Stuart Family Trust u/a Dated 9-1-2000, as to an undivided 5.20% interest; and Rolf Wessman, a married man as his separate property, as to an undivided 20.00% (collectively, "**Lender**"), whose mailing address is 122 Calistoga Rd. #179, Santa Rosa, CA 95409.

For purposes of Article 9 of the Uniform Commercial Code (RCW 62A.9A), this Deed of Trust constitutes a Security Agreement with the Grantor being the Debtor and the Lender being the Secured Party. This Deed of Trust also constitutes a Financing Statement filed as a fixture filing pursuant to Article 9 of the Uniform Commercial Code, RCW 62A.9A-502(c).

This Deed of Trust secures an obligation incurred for the construction of an improvement on land, and is a "construction mortgage" under RCW 62A.9A-334(h).

IN CONSIDERATION OF the Loan described below, Grantor hereby irrevocably GRANTS, TRANSFERS, CONVEYS and ASSIGNS to Trustee, IN TRUST, WITH POWER OF SALE, all of Grantor's present and future estate, right, title, claim, and interest, either in law or in equity, in and to the following property ("**Property**"):

- A. The real property described on Exhibit A, all rights to the alleys, streets and roads adjoining or abutting the real property, all easements, access, air and development rights, minerals and oil, gas and other hydrocarbon substances, water, water rights and water stock, and all other rights, hereditaments, privileges, and appurtenances now or hereafter belonging or in any way appertaining to such real property ("**Land**").
- B. All buildings, improvements and tenements now or hereafter located on the Land ("**Improvements**"), including without limitation all fixtures and articles of property attached to, or used or adapted for use in the ownership, development, operation or maintenance of the Land and Improvements (whether such items are leased, owned, or subject to any title-retaining or security instrument); all heating, cooling, air-conditioning, ventilating, refrigerating, plumbing, generating, power, lighting, laundry, maintenance, incinerating, lifting, cleaning, fire prevention and extinguishing, security and access control, cooking, gas, electric and communication fixtures, equipment and apparatus; all engines, motors, conduits, pipes, pumps, tanks, ducts, compressors, boilers, water heaters and furnaces; all ranges, stoves, disposals, refrigerators and other appliances; all escalators and elevators, baths, sinks, all cabinets, partitions, mantels, built-in mirrors, window shades, blinds, screens, awnings, storm doors, windows and sash; all carpeting, underpadding, floor covering, paneling, and draperies; all furnishings of public spaces, halls and lobbies; and all shrubbery and plants. All such items shall be deemed part of the Land and not severable wholly or in part without material injury to the freehold.
- C. All of the present and future rents, revenues, issues, profits and income of the Land and Improvements, and all present and future leases and other agreements for the occupancy or use of all or any part of the Land and Improvements, including without limitation all cash or security deposits, advance rentals and deposits or payments of similar nature, and all guarantees of tenants' or occupants' performance under such leases and agreements.
- D. All tangible and intangible personal property now or hereafter used or acquired in connection with the ownership, development, operation or maintenance of the Land and Improvements, including without limitation all furniture, furnishings, equipment, supplies, and other goods, wherever located, whether in the possession of Grantor, warehousemen, bailee, or any other person, all site

plans, plats, architectural plans, specifications, work drawings, surveys, engineering reports, test borings, market surveys, and other similar work products; all permits, licenses, franchises, and trade names; all contract rights (including without limitation all architectural, construction, engineering, consulting, and management contracts, all insurance policies, and all performance, payment, completion and other surety bonds); and all claims, causes of action, warranties, accounts receivable, escrow accounts, insurance policies, deposits (including tax, insurance and other reserves), instruments, documents of title, general intangibles, and business records.

- E. All other Collateral as defined in Section 5.1 of this Deed of Trust.
- F. All present and future monetary deposits given to any public or private utility with respect to utility services furnished to the Land or the Improvements.
- G. All present and future accounts, chattel paper, goods (including inventory and equipment), instruments, investment property, documents, and general intangibles, (as such terms are defined in the Uniform Commercial Code), including without limitation all machinery, equipment, tools, parts, office and business furniture and furnishings, and supplies now owned or hereafter acquired by Grantor in connection with its business.
- H. All proceeds (including claims and demands therefor) of the conversion, voluntary or involuntary, of any of the foregoing into cash or liquidated claims, including without limitation the insurance proceeds and condemnation awards.
- I. All proceeds of the foregoing.

TO SECURE THE FOLLOWING ("**Secured Obligations**"):

1. Payment of the sum of FIVE HUNDRED THOUSAND and no/100 DOLLARS (\$500,000.00), with interest thereon, according to the terms and provisions of a promissory note ("**Note**") dated on or about the same as this Deed of Trust, made by Grantor and NWCC Holdings V, LLC, a Washington limited liability company (collectively, jointly and severally, "**Borrower**") and payable to Lender, including any and all modifications, extensions, renewals and replacements thereof;
2. Payment of all other sums which are or which may become owing under the Loan Documents, including without limitation, all sums advanced to protect the security of this Deed of Trust, together with interest thereon as herein provided; and
3. Performance of all other obligations of Borrower and/or Grantor hereunder and under the other Loan Documents.

As used herein, the term "**Loan Documents**" means the Note, this Deed of Trust, and all related documents and instruments, and any and all modifications, extensions, renewals and replacements thereof. Notwithstanding the foregoing, this Deed of Trust does not secure and shall not be construed to secure the Unsecured Obligations defined in Section 9.25 herein.

The indebtedness secured by this Deed of Trust may be indexed, adjusted, renewed or renegotiated.

GRANTOR HEREBY REPRESENTS, WARRANTS, COVENANTS AND AGREES AS FOLLOWS:

**ARTICLE 1
TITLE AND USE**

1.1 **Warranty of Title.** Grantor warrants, represents, covenants and agrees as follows: (a) Grantor holds marketable title to the Property with the full right and power to grant, convey and assign the Property. (b) The Property is free from liens, encumbrances, exceptions and other charges of any kind whatsoever, except for the Permitted Exceptions. (c) No other lien or encumbrance, whether superior or inferior to this Deed of Trust, shall be created or suffered to be created by Grantor without the prior written consent of Lender. (d) No default on the part of Grantor or any other person exists under any of the Permitted Exceptions and all of the Permitted Exceptions are in full force and effect and in good standing, without modification. (e) Complete and current copies of the Permitted Exceptions have been furnished to Lender, and none of them have been or will be modified by Grantor without Lender's prior written consent. (f) Grantor shall fully comply with all the terms of the Permitted Exceptions and shall deliver to Lender a copy of all notices delivered in connection with the Permitted Exceptions. (g) Lender has the right to contact the other parties to the Permitted Exceptions to confirm the status thereof, and Grantor shall, from time to time, at the request of Lender, request of such parties a certificate confirming such information regarding the Permitted Exceptions as Lender may request. (h) Grantor shall forever warrant and defend the Property unto Lender against all claims and demands of any other person whatsoever, subject only to non-delinquent taxes and assessments and the Permitted Exceptions. As used in this Deed of Trust, "**Permitted Exceptions**" means the exceptions to title to the Property set out in Schedule B of the policy of title insurance issued to Lender with respect to this Deed of Trust.

1.2 **Non-Agricultural Use; Commercial Loan.** Grantor represents and warrants to Lender that (a) the Property is not used principally for agricultural purposes, and (b) the loan secured by this Deed of Trust is being used for commercial purposes, and not for personal, family or household purposes.

1.3 **Hazardous Substances.**

(a) **Representations and Warranties.** Grantor represents and warrants to Lender, to the best of its knowledge after due inquiry and inspection, as follows: (i) no asbestos has ever been used in the construction, repair or maintenance of any Improvements; (ii) no Hazardous Substance is currently being generated, processed, stored, transported, handled or disposed of on, under or in the Property, except in accordance with all applicable laws; (iii) neither Grantor nor any other person or entity has ever caused or permitted any Hazardous Substance to be generated, processed, stored, transported, handled or disposed of, on, under or in the Property, except in compliance with all applicable laws; (iv) there is no actual or alleged violation with respect to the Property of any federal, state or local statute, ordinance, rule, regulation or other law pertaining to Hazardous Substances; and (v) there is no action or proceeding pending before or appealable from any court, quasi-judicial body or administrative agency relating to Hazardous Substances affecting or alleged to be affecting the Property.

(b) **Covenant.** Grantor covenants and agrees that Hazardous Substances will not be generated, processed, stored, transported, handled or disposed of on the Property by any person or entity, except in accordance with all applicable laws.

(c) **Definition.** "**Hazardous Substance**" means any underground storage tank (whether empty, filled or partially filled with any substance) and any substance which now or hereafter becomes regulated under any federal, state or local statute, ordinance, rule, regulation or other law relating to environmental protection, contamination or cleanup, or public health and safety.

(d) **Notification: Cleanup.** Grantor shall immediately notify Lender if Grantor becomes aware of any Hazardous Substance problem or liability with respect to the Property, any actual or alleged violation with respect to the Property of any federal, state or local statute, ordinance, rule, regulation or other law pertaining to Hazardous Substances, or any lien or action with respect to any of the foregoing. Grantor shall, at its sole expense, take all actions as may be necessary or advisable for the cleanup of Hazardous Substances with respect to the Property, including without limitation, all removal, containment

and remedial actions in accordance with all applicable laws and in all events in a manner satisfactory to Lender, and shall further pay or cause to be paid all cleanup, administrative and enforcement costs of governmental agencies if obligated to do so by contract or by law.

(e) Right of Entry. Lender is hereby authorized to enter the Property, including the interior of any structures at reasonable times, and after reasonable notice, for the purpose of inspecting the Property to determine Grantor's compliance with this Section.

1.4 No Claim, Offset or Defense. Grantor acknowledges and agrees that: (i) no offset or defense exists to enforcement of the Loan Documents in accordance with their respective terms; and (ii) no claims by Grantor exist against Lender in connection with the making of the Loan or the transactions contemplated by the Loan Documents, or, if any such claims exist they are hereby unconditionally and irrevocably waived, relinquished, and forever discharged.

ARTICLE 2 GRANTOR'S COVENANTS

2.1 Payment and Performance of Secured Obligations. Grantor shall pay when due all sums which are now or which may become owing under the Note and the Loan Documents and shall pay and perform all other Secured Obligations in accordance with their terms.

2.2 Payment of Taxes, Utilities, Liens and Charges.

(a) Taxes and Assessments. Except as the same may otherwise be paid from reserves under Article 3, Grantor shall pay when due directly to the payee thereof all taxes and assessments (including without limitation, nongovernmental levies or assessments such as maintenance charges, owner association dues or charges, or fees, levies or charges resulting from covenants, conditions or restrictions) levied, assessed or charged against or with respect to the Property or this Deed of Trust. If required by Lender, Grantor shall pay all costs and expenses of a tax monitoring and verification service in order to verify for Lender's benefit that Grantor is in compliance with this Section. Upon request, Grantor shall promptly furnish to Lender all notices of amounts due under this subsection and all receipts evidencing such payments.

(b) Utilities. Grantor shall pay when due all utility charges and assessments for services furnished the Property.

(c) Labor and Materials. Grantor shall pay when due the claims of all persons supplying labor or materials to or in connection with the Property.

(d) Liens and Charges. Grantor shall promptly discharge any lien, encumbrance, or other charge, whether superior or inferior to this Deed of Trust, which may be claimed against the Property; provided that Grantor shall have the right to contest the amount or validity in whole or in part of any lien, encumbrance or other charge against the Property by appropriate proceedings conducted in good faith and with due diligence, in which event Grantor, upon prior written notice to Lender, may postpone or defer payment of such lien, encumbrance or other charge so long as such proceedings shall operate to prevent the collection of the lien, encumbrance or other charge, and provided that neither the Property nor any part thereof will, by reason of such postponement or deferment, be in danger of being forfeited or lost, and that Grantor, before the date such lien, encumbrance or other charge, becomes delinquent, gives such reasonable security as may be requested by Lender to ensure payment thereof and prevent any forfeiture or loss of the Property or any part thereof.

(e) Taxes, Assessments and Other Charges Imposed on Lender. If, at any time after the date of this Deed of Trust, any law is enacted or changed (including any interpretation thereof) which subjects Lender to any increase in any tax (except federal income taxes), assessment, or other charge, in

any form measured by or based on any portion of the indebtedness secured by this Deed of Trust, Grantor shall pay such increased amount to Lender on demand; provided that if any such payment would be unlawful, Lender may declare all accrued interest and the entire principal balance of the Note immediately due and payable.

2.3 Insurance

(a) Coverages Required. Grantor shall keep the following insurance coverages in effect with respect to the Property:

(i) Insurance against loss by fire and the hazards now or hereafter embraced by the standard "All Risk" form of insurance, in an amount equal at all times to the full insurable value of the Improvements, which during construction of the Improvements shall be in the "Builder's Risk" form. All such insurance coverage shall contain a "replacement cost endorsement" without reduction for depreciation, and shall also contain loss of rents and/or business interruption insurance coverage, a fluctuating value indorsement with a waiver of the co-insurance clause (or an agreed amount indorsement with an inflation guard endorsement), and shall contain such other indorsements as Lender may reasonably request. All such indorsements shall be in form and substance satisfactory to Lender.

(ii) Comprehensive public liability insurance against claims for bodily injury, death or property damage occurring on, in or about the Property in amounts and on terms acceptable to the Lender.

(iii) Flood insurance in an amount satisfactory to Lender and on terms satisfactory to Lender if the Property is located in a designated flood hazard area.

(iv) Insurance against such similar or other hazards, casualties, liabilities and contingencies, in such forms and amounts, as Lender may from time to time reasonably require.

(b) Policies. Each insurance policy will be in a company and form acceptable to Lender. Each hazard insurance policy will include a Form 438BFU or equivalent mortgagee endorsement in favor of and in form acceptable to Lender. All required policies will provide for at least ten (10) days' written notice to Lender prior to the effective date of any cancellation or material amendment, which term shall include any reduction in the scope or limits of coverage. Grantor shall furnish to Lender the original of each required insurance policy, or a certified copy thereof together with a certificate of insurance setting forth the coverage, the limits of liability, the carrier, the policy number and the expiration date. As security for the Secured Obligations, Grantor hereby assigns to Lender all required insurance policies, together with all proceeds thereof, rights thereto and all unearned premiums returnable upon cancellation.

(c) Payment; Renewals. Grantor shall promptly furnish to Lender all renewal notices relating to insurance policies. Except as the same may otherwise be paid from reserves under Article 3, Grantor shall pay all premiums on insurance policies directly to the carrier. At least thirty (30) days prior to the expiration date of each such policy, Grantor shall furnish to Lender a renewal policy in a form acceptable to Lender, together with evidence that the renewal premium has been paid.

(d) Application of Insurance Proceeds. In the event of any loss, Grantor shall give prompt written notice thereof to the insurance carrier and Lender. Grantor hereby authorizes Lender as Grantor's attorney-in-fact to make proof of loss, to adjust and compromise any claim, to commence, appear in and prosecute, in Lender's or Grantor's name, any action relating to any claim, and to collect and receive insurance proceeds; provided, however, that Lender shall have no obligation to do so. Lender shall apply any insurance proceeds received by it hereunder first to the payment of the costs and expenses incurred in the collection of the proceeds and then, in its absolute discretion and without regard to the adequacy of its security, to:

(i) The payment of the Secured Obligations, whether then due and payable or not. Any such application of proceeds to principal on the Note shall be without the imposition of any prepayment fee otherwise payable under the Note, but shall not extend or postpone the due dates of the installment payments under the Note, or change the amounts thereof; or

(ii) The reimbursement of Grantor, under Lender prescribed disbursement control procedures, for the cost of restoration or repair of the Property. Lender may, at its option, condition the reimbursement on Lender's approval of the plans and specifications of the reconstruction, contractor's cost estimates, architect's certificates, waivers of liens, sworn statements of mechanics and materialmen, and such other evidence of costs, percentage completion of construction, application of payments and satisfaction of liens as Lender may reasonably require.

Except to the extent that insurance proceeds are applied to payment of the Secured Obligations, nothing herein contained shall be deemed to excuse Grantor from restoring, repairing or maintaining the Property as provided in Section 2.4, regardless of whether or not there are insurance proceeds available or whether any such proceeds are sufficient in amount.

(e) Transfer of Title. If the Property is sold pursuant to Article 8 or if Lender otherwise acquires title to the Property, Lender shall have all of the right, title and interest of Grantor in and to any insurance policies and unearned premiums thereon and in and to the proceeds resulting from any damage to the Property prior to such sale or acquisition.

2.4 Preservation and Maintenance of Property; Right of Entry.

(a) Preservation and Maintenance. Grantor represents and warrants that the Improvements are free from damage caused by fire or other casualty. Grantor shall (i) not commit or suffer any waste or permit any impairment or deterioration of the Property, (ii) not abandon the Property, (iii) 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 Lender 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, (iv) keep the Property, including improvements, fixtures, equipment, machinery and appliances thereon, in good condition and repair and shall replace fixtures, equipment, machinery and appliances of the Property when necessary to keep such items in good condition and repair, and (v) generally operate and maintain the Property in a commercially reasonable manner.

(b) Alterations. None of the Improvements shall be structurally altered, removed or demolished, in whole or in part, without Lender's prior written consent, nor shall any fixture or chattel covered by this Deed of Trust and adapted to the use and enjoyment of the Property be removed at any time without like consent unless actually replaced by an article of equal suitability which is owned by Grantor free and clear of any lien or security interest.

(c) Right of Entry. Lender is hereby authorized to enter the Property, including the interior of any structures, at reasonable times and after reasonable notice, for the purpose of inspecting the Property to determine Grantor's compliance with this Section.

2.5 Parking. If any part of the automobile parking areas included within the Property is taken by condemnation, and before any such parking areas are diminished for any other reason, Grantor shall take all actions as are necessary to provide substitute parking facilities in kind, size and location sufficient to comply with all governmental zoning and other regulations and all leases. Before making any contract for substitute parking facilities, Grantor shall furnish to Lender satisfactory assurance of completion thereof free of liens and in conformity with all government zoning, and other regulations.

2.6 Use of Property. Grantor shall comply with all laws, ordinances, regulations and requirements of any governmental body, and all other covenants, conditions and restrictions applicable to the Property, and pay all fees and charges in connection therewith. Unless required by applicable law or unless Lender

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 acquiesce in a change in the zoning classification of the Property without Lender's prior written consent.

2.7 Condemnation.

(a) **Proceedings.** Grantor shall promptly notify Lender of any action or proceeding relating to any condemnation or other taking (including without limitation any change in the grade of the Property), whether direct or indirect, of the Property or part thereof or interest therein, and Grantor shall appear in and prosecute any such action or proceeding unless otherwise directed by Lender in writing. Grantor authorizes Lender at Lender's option, as attorney-in-fact for Grantor, to commence, appear in and prosecute, in Lender's or Grantor's name, any action or proceeding relating to any such condemnation or other taking, and to settle or compromise any claim in connection with such condemnation or other taking. All awards, payments, damages, direct, consequential and otherwise, claims, and proceeds thereof, in connection with any such condemnation or other taking, or for conveyances in lieu of condemnation, are hereby assigned to Lender, and all proceeds of any such awards, payments, damages or claims shall be paid to Lender.

(b) **Application of Condemnation Proceeds.** Lender shall apply any such proceeds in the manner and upon the terms and conditions set forth in Section 2.3(d) relating to the application of insurance proceeds.

2.8 Protection of Lender's Security. Grantor shall give notice to Lender of and shall appear in and defend any action or proceeding that may affect the Property, the interests of Lender or Trustee therein, or the rights or remedies of Lender or Trustee under the Loan Documents. If any such action or proceeding is commenced, or Grantor fails to perform any obligation under the Loan Documents, Lender or Trustee may, at their option, make any appearances, disburse any sums, make any entries upon the Property, and take any actions as may be necessary or desirable to protect or enforce the security of this Deed of Trust, remedy Grantor's failure to perform its obligations under the Loan Documents (without waiving such default by Grantor), or otherwise protect Lender's or Trustee's interests. Grantor shall pay all losses, damages, fees, costs, and expenses incurred by Lender and Trustee in taking such actions, including without limitation, reasonable legal fees and costs.

2.9 Reimbursement of Lender's and Trustee's Expenses. All amounts disbursed by Lender and Trustee pursuant to Section 2.8 or any other provision of this Deed of Trust, with interest thereon, shall be additional indebtedness secured by this Deed of Trust. All such amounts shall be immediately due and payable and bear interest from the date of disbursement at the lesser of the default rate under the Note, or the maximum rate permitted by law.

2.10 Books and Records; Financial Statements. Grantor shall keep and maintain at Grantor's address stated above, or such other place as Lender may approve in writing, 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 instruments which affect the Property. Such books, records, contracts, leases and other instruments shall be subject to examination, inspection and copying at any reasonable time by Lender. Grantor shall furnish to Lender within thirty (30) days after Lender's request, a rent roll for the Property, certified by Grantor, showing the name of each tenant, the space occupied, the lease expiration date, the monthly rent, the date to which rent has been paid, and any deposit Grantor is holding. In addition, Grantor shall furnish to Lender within twenty (20) days after Lender's request, a complete and current financial statement, in reasonable detail for any general partner and guarantor, together with a true and correct copy of the most recent federal income tax return of any general partner and guarantor.

ARTICLE 3 RESERVES

3.1 **Deposits.** If required by Lender, Grantor shall, at the time of making each monthly installment payment under the Note, deposit with Lender a sum, as estimated by Lender, equal to the taxes and special assessments next due on the Property, and the premiums that will next become due on insurance policies as may be required under this Deed of Trust, less all sums already deposited therefor, divided by the number of months to elapse before two (2) months prior to the date when such taxes, special assessments and premiums will become delinquent. Lender may require Grantor to deposit with Lender, in advance, such other sums for other taxes, assessments, premiums, charges and impositions in connection with Grantor or the Property as Lender reasonably deems necessary to protect Lender's interests ("**Other Impositions**"). Such sums for Other Impositions shall be deposited in a lump sum or in periodic installments, at Lender's option. If required by Lender, Grantor shall promptly deliver to Lender all bills and notices with respect to any taxes, assessments, premiums and Other Impositions. Unless Grantor and Lender otherwise agree in writing, Lender shall not be required to pay Grantor any interest, earnings or profits on any sums deposited with Lender. All sums deposited with Lender under this Section 3.1 are hereby pledged as security for the Secured Obligations.

3.2 **Application of Deposits.** All such deposited sums shall be held by Lender and applied in such order as Lender elects to pay such taxes, assessments, premiums and Other Impositions or, upon any Event of Default, may be applied in whole or in part, to the Secured Obligations. The arrangement provided for in this Article 3 is solely for the added protection of Lender and entails no responsibility on Lender's part beyond the allowing of due credit, without interest, for the sums actually received by it. Upon any assignment of this Deed of Trust by Lender, any funds on hand shall be turned over to the assignee and any responsibility of Lender with respect thereto shall terminate. Each transfer of the Property in accordance with Article 4 below shall automatically transfer to the transferee all rights of Grantor with respect to any funds deposited hereunder. Upon payment in full of the Secured Obligations, Lender shall promptly refund to Grantor the remaining balance of any deposits then held by Lender.

3.3 **Adjustments to Deposits.** If the total deposits held by Lender exceeds the amount deemed necessary by Lender to provide for the payment of such taxes, assessments, premiums and Other Impositions, such excess shall, provided there is no Event of Default or any event which would constitute an Event of Default if not cured within the time allowed, be credited by Lender on the next due installment or installments of such deposits. If at any time the total deposits held by Lender are less than the amount deemed necessary by Lender to provide for the payment of such taxes, assessments, premiums and Other Impositions, Grantor shall promptly deposit the deficiency with Lender after receipt of written demand from Lender.

ARTICLE 4 RESTRICTIONS ON TRANSFER OR ENCUMBRANCE

4.1 **Transfers Prohibited.** It is a "**Transfer**" under this Deed of Trust if, without Lender's prior written consent, Grantor encumbers, sells (by contract or otherwise), conveys, leases, or otherwise transfers the Property or any part of or interest in the Property, or if there is any change in (a) the ownership or control of 20% or more of Grantor's stock if Grantor is a corporation (whether in one transaction or cumulatively), (b) the ownership or control of any general partnership interest in Grantor if Grantor is a partnership, (c) the ownership of any beneficial interest in Grantor if Grantor is not otherwise a natural person or person, and (d) the ownership of stock, any general partnership interest, or any other beneficial interest in any corporation, partnership or other entity that has an ownership interest in Grantor. Any Transfer without Lender's prior written consent shall be deemed to increase the risk of Lender, and is an Event of Default, and to the maximum extent permitted by applicable law, all Secured Obligations shall become immediately due and payable in full. The failure to pay all Secured Obligations as required in this Article 4 is an independent Event of Default. Lender may, in its sole discretion, consent to any Transfer

subject to such terms and conditions as Lender may require, including without limitation the payment of a transfer review fee, an assumption fee of one percent (1%) of the principal balance of the Secured Obligations, and an increase in the interest rate of the Secured Obligations. Notwithstanding the foregoing, Lender shall not be entitled to accelerate the Secured Obligations or declare an Event of Default hereunder solely by reason of (i) a Transfer that occurs by inheritance, devise, or bequest or by operation of law upon the death of a natural person who is an owner of the Property, or (ii) an occupancy lease of the Property that is expressly permitted elsewhere in this Deed of Trust or the other Loan Documents. Grantor understands and agrees that the commencement of any action or suit for partition is a prohibited transfer and an Event of Default under this Deed of Trust, and that the entry of any judgment or decree for partition is an independent and prohibited transfer and an Event of Default under this Deed of Trust.

ARTICLE 5 UNIFORM COMMERCIAL CODE SECURITY AGREEMENT

5.1 **Grant to Lender.** This Deed of Trust constitutes a security agreement pursuant to the Uniform Commercial Code with respect to:

(a) Any of the Property which, under applicable law, is not real property or effectively made part of the real property by the provisions of this Deed of Trust; and

(b) Any and all other property now or hereafter described on any Uniform Commercial Code Financing Statement naming Grantor as Debtor and Lender as Secured Party and affecting property in any way connected with the use and enjoyment of the Property (any and all such other property constituting Property for purposes of this Deed of Trust); and

(c) All present and future accounts, chattel paper, goods (including inventory and equipment), instruments, investment property, documents, and general intangibles, (as such terms are defined in the Uniform Commercial Code), including without limitation all receivables, machinery, tools, parts, computers, office and business furniture and furnishings, and supplies;

(all of the foregoing personal property collateral collectively, the "***Collateral***"). Grantor hereby grants Lender a security interest in all Collateral as security for the Secured Obligations. Grantor and Lender agree, however, that neither the foregoing grant of a security interest nor the filing of any financing statement shall be construed as limiting the parties' stated intention that everything used in connection with the production of income from the Property, or adapted for use therein, is and at all times shall be regarded as part of the Land. A photographic copy or other reproduction of this Deed of Trust or any financing statement is sufficient as a financing statement and may be filed as such.

5.2 **Lender's Rights and Remedies.** With respect to the Collateral, Lender shall have all of the rights and remedies of a secured party under the Uniform Commercial Code, and as provided herein, including without limitation the right to cause such Property to be sold by Trustee under the power of sale granted by this Deed of Trust, and as provided by law. In exercising its remedies, Lender may proceed against the items of real property and any items of personal property separately or together and in any order whatsoever without in any way affecting the availability of Lender's remedies. Upon demand by Lender following an Event of Default hereunder, Grantor will assemble all Collateral and make them available to Lender at the Property. Lender shall give Grantor at least five (5) days prior written notice of the time and place of any public sale or other disposition of such Collateral or of the time of or after which any private sale or any other intended disposition is to be made. Any person permitted by law to purchase at any such sale may do so. The Collateral may be sold at any one or more public or private sales as permitted by applicable law.

5.3 **Filing of Financing Statement.** Grantor warrants and represents to Lender that the name and address of Grantor set out on the first page of this Deed of Trust are complete and accurate, and Grantor

authorizes Lender to file a financing statement describing all personal property collateral included within the Property. Grantor irrevocably authorizes the Lender to file in any Uniform Commercial Code jurisdiction any initial financing statement and amendments thereto that: (a) Indicates the Collateral as "all assets" of Grantor or words of similar effect, regardless of whether any particular asset comprised in the Collateral falls within the scope of Article 9 of the UCC, or as being of an equal or lesser scope or with greater detail; (b) contains any other information required by part 5 of Article 9 of the UCC for the sufficiency or filing office acceptance of any financing statement or amendment, including (i) whether the Grantor is an organization, the type of organization, and any organization identification number issued to the Grantor and (ii) in the case of a financing statement filed as a fixture filing or indicating Collateral to be as-extracted collateral or timber to be cut, a sufficient description of real property to which the Collateral relates; (c) contains a notification that Grantor has granted a negative pledge to the Lender, and that any subsequent lien or may be tortiously interfering with Lender's rights; (d) advises third parties that any notification of Grantor's account debtors will interfere with Lender's collection rights; (e) Grantor agrees to furnish any of the foregoing information to the Lender promptly upon request; (f) Grantor ratifies its authorization for Lender to have filed any like initial financing statement or amendment thereto if filed prior to the date hereof; and (g) Lender may add any supplemental language to any such financing statement as Lender may determine to be necessary or helpful in acquiring or preserving rights against third parties.

ARTICLE 6 ASSIGNMENT OF RENTS AND LEASES; LEASES OF PROPERTY; APPOINTMENT OF RECEIVER, LENDER IN POSSESSION

6.1 **Assignment of Rents and Leases.** As security for the Secured Obligations, Grantor hereby assigns and transfers to Lender all right, title and interest of Grantor in and to: any and all present and future leases, subleases, and other agreements for the occupancy or use of all or any part of the Property, and any and all extensions, renewals and replacements thereof ("**Leases**"); all cash or security deposits, advance rentals and deposits of a similar nature under the Leases; any and all guarantees of tenants' or occupants' performances under any and all Leases; and all rents, issues, profits and revenues ("**Rents**") now due or which may become due or to which Grantor may now or shall hereafter become entitled or may demand or claim (including Rents coming due during any redemption period), arising or issuing from or out of any and all Leases, including without limitation minimum, additional, percentage and deficiency rents and liquidated damages.

6.2 **Collection of Rents.** Prior to any Event of Default hereunder, Grantor shall have a license to, and shall, collect and receive all Rents of the Property as trustee for the benefit of Lender and Grantor, apply the Rents so collected first to the payment of taxes, assessments and other charges on the Property prior to delinquency, second to the cost of insurance, maintenance and repairs required by the terms of this Deed of Trust, third to the costs of discharging any obligation or liability of Grantor under the Leases, and fourth to the Secured Obligations, with the balance, if any, to the account of Grantor provided there is no Event of Default. Upon delivery of written notice by Lender to Grantor of an Event of Default hereunder and stating that Lender exercises its rights to the Rents, and without the necessity of Lender entering upon and taking and maintaining full control of the Property in person, by agent or by a court-appointed receiver, Lender shall immediately be entitled to possession of all Rents from the Property as the same become due and payable including without limitation Rents then due and unpaid, and all such Rents shall immediately upon delivery of such notice be held by Grantor as trustee for the benefit of Lender only. Upon delivery of such written notice by Lender, Grantor hereby agrees to direct each tenant or occupant of the Property to pay all Rents to Lender on Lender's written demand therefor, without any liability on the part of said tenant or occupant to inquire further as to the existence of a default by Grantor. Grantor hereby authorizes Lender as Grantor's attorney-in-fact to make such direction to tenants and occupants upon Grantor's failure to do so as required herein. Payments made to Lender by tenants or occupants shall, as to such tenants and occupants, be in discharge of the payors' obligations to Grantor. Lender may exercise, in Lender's or Grantor's name, all rights and remedies available to Grantor with respect to collection of Rents. Nothing herein contained shall be construed as obligating Lender to perform any of Grantor's obligations under any of the Leases.

6.3 **Grantor's Representations and Warranties.** Grantor hereby represents and warrants to Lender that Grantor has not executed and will not execute any other assignment of said Leases or Rents, that Grantor has not performed and will not perform any acts and has not executed and will not execute any instrument which would prevent Lender from exercising its rights under this Article 6, and that at the time of execution of this Deed of Trust there has been no anticipation or prepayment of any of the Rents of the Property for more than two (2) months prior to the due dates thereof. Grantor further represents and warrants to Lender that all existing Leases are in good standing and there is no default thereunder, whether by Grantor or lessee, and that, to Grantor's knowledge, there is no event or condition which, with notice or the passage of time or both, would be a default thereunder. Grantor shall execute and deliver to Lender such further assignments of rents and leases of the Property as Lender may from time to time request.

6.4 **Leases of the Property.** Grantor shall comply with and observe Grantor's obligations as landlord under all Leases and will do all that is necessary to preserve all Leases in force and free from any right of counterclaim, defense or setoff. At Lender's request, Grantor shall furnish Lender with executed copies of all Leases now existing or hereafter made and all Leases hereafter entered into will be on a form and in substance satisfactory to Lender. All commercial Leases will specifically provide that the tenant attorns to any person succeeding to the interest of Grantor upon any foreclosure of this Deed of Trust or conveyance in lieu thereof, such attornment shall be in such form as Lender may approve and shall provide that Tenant shall not have the right of set off or defense to payment of rents for any event or act that occurred prior to such successor obtaining title to Grantor's interest except to the extent such event or act is continuing at the time such successor obtains such title. Tenant shall also agree to execute such further evidences of attornment as Lender may from time to time request. Without Lender's written consent, Grantor shall not collect or accept payment of any Rents of the Property more than two (2) months prior to the due dates thereof.

6.5 **Lender in Possession; Appointment of Receiver.** Upon any Event of Default hereunder, Lender may, in person, by agent or by a court-appointed receiver, regardless of the adequacy of Lender's security, enter upon and take and maintain full control of the Property in order to perform all acts necessary and appropriate for the operation and maintenance thereof in the same manner and to the same extent as Grantor could do the same, including without limitation the execution, enforcement, cancellation and modification of Leases, the collection of all Rents of the Property, the removal and eviction of tenants and other occupants, the making of alterations and repairs to the Property, and the execution and termination of contracts providing for management or maintenance of the Property, all on such terms as are deemed best by Lender to protect the security of this Deed of Trust. From and after the occurrence of any such Event of Default, if any owner of the Property shall occupy the Property or part thereof such owner shall pay to Lender in advance on the first day of each month a reasonable rental for the space so occupied, and upon failure so to do Lender shall be entitled to remove such owner from the Property by any appropriate action or proceedings. Following an Event of Default hereunder, Lender shall be entitled (regardless of the adequacy of Lender's security) to the appointment of a receiver on an *ex parte* basis, Grantor hereby consenting to the appointment of such receiver. Said receiver may serve without bond and may be Lender or an employee of Lender. The receiver shall have, in addition to all the rights and powers customarily given to and exercised by such receivers, all the rights and powers granted to Lender in this Article 6. Lender or the receiver shall be entitled to receive a reasonable fee for so managing the Property.

6.6 **Application of Rents.** All Rents collected subsequent to delivery of written notice by Lender to Grantor of an Event of Default hereunder may be applied first to the costs, if any, of taking control of and managing the Property and collecting the Rents, including without limitation attorney fees, receiver fees, premiums on receiver's bonds, costs of maintenance and repairs to the Property, premiums on insurance policies, taxes, assessments and other charges on the Property, and the costs of discharging any obligation or liability of Grantor under the Leases, and then to the Secured Obligations. Lender or the receiver shall be liable to account only for those Rents actually received. Lender shall not be liable to

Grantor, anyone claiming under or through Grantor or anyone having an interest in the Property by reason of anything done or left undone by Lender under this Article 6.

6.7 **Deficiencies.** To the extent, if any, that the costs of taking control of and managing the Property, collecting the Rents, and discharging obligations and liabilities of Grantor under the Leases, exceed the Rents of the Property, the excess sums expended for such purposes shall be indebtedness secured by this Deed of Trust. Such excess sums shall be payable upon demand by Lender and shall bear interest from the date of disbursement at the greater of the default rate under the Note, or the maximum rate permitted by law.

6.8 **Lender Not Mortgagee in Possession.** Nothing herein shall constitute Lender a "mortgagee in possession" prior to its actual entry upon and taking possession of the Property. Entry upon and taking possession by a receiver shall not constitute possession by Lender.

6.9 **Enforcement.** Lender may enforce this assignment without first resorting to or exhausting any security or collateral for the Secured Obligations.

6.10 **Prior Rights.** If Lender has approved a prior deed of trust or mortgage as part of the approved Permitted Exceptions on the Property, then Lender's rights under this Article shall be subject to and subordinate to the rights, if any, of the lender(s) holding such prior rights under such prior lien(s), to the extent such rights are legally valid, enforceable and enforced by such lender(s).

ARTICLE 7 EVENTS OF DEFAULT

7.1 **Events of Default.** Any one or more of the following is an "**Event of Default**":

(a) Failure to make any payment when due under the Note, this Deed of Trust, or any of the other Loan Documents.

(b) Failure to pay all Secured Obligations in full as required under Article 4.

(c) Failure to perform any other covenant, agreement or obligation under this Deed of Trust (other than the payment of money).

(d) There is an Event of Default under the Note or any of the other Loan Documents

(e) There is a default under the Indemnity Agreement.

(f) There is a default under any of the Permitted Exceptions that is not cured within the applicable cure period (if any) set forth therein.

(g) Grantor, Borrower or any trustee of Grantor or Borrower files a petition in bankruptcy or for an arrangement, reorganization or any other form of debtor relief, or such a petition is filed against Grantor, Borrower, or any trustee of Grantor or Borrower.

(h) A decree or order is entered for the appointment of a trustee, receiver or liquidator for Grantor, Borrower, or Grantor's property or Borrower's Property.

(i) Grantor commences any proceeding for dissolution or liquidation; or any such proceeding is commenced against Grantor or Borrower.

(j) Grantor or Borrower makes an assignment for the benefit of its creditors, or admits in writing its inability to pay its debts generally as they become due.

(k) There is an attachment, execution or other judicial seizure of any portion of Grantor's or Borrower's assets.

(l) Any representation or disclosure made to Lender by Grantor, Borrower, or any guarantor in connection with the Secured Obligations proves to be materially false or misleading when made, whether or not that representation or disclosure is expressly set forth in the Loan Documents.

(m) A default occurs under any other indebtedness now or hereafter owing to Lender on which Grantor, Borrower or any guarantor of the Loan is a maker or a guarantor, and such default is not cured within the applicable cure period if any, under the instrument(s) evidencing such indebtedness.

(n) A default occurs under any lien encumbering the Property, or under any obligation which is secured by a lien encumbering the Property.

7.2 **Form of Notice.** At Lender's option, any written notice of default given to Grantor under Section 7.1 may be given in the form of a statutory notice of default under the Washington Deed of Trust Act or any other form as Lender may elect.

ARTICLE 8 REMEDIES

8.1 **Acceleration Upon Default: Additional Remedies.** Upon any Event of Default, Lender may, at its option and without notice to or demand upon Grantor, exercise any one or more of the following actions:

- (a) Declare all the Secured Obligations immediately due and payable.
- (b) Bring a court action to enforce the provisions of this Deed of Trust or any of the other Loan Documents.
- (c) Foreclose this Deed of Trust as a mortgage.
- (d) Cause any or all of the Property to be sold under the power of sale granted by this Deed of Trust in any manner permitted by applicable law.
- (e) Elect to exercise its rights with respect to the Leases and the Rents.
- (f) Exercise any or all of the other rights and remedies under this Deed of Trust and the other Loan Documents.
- (g) Exercise any other right or remedy available under law or in equity.

8.2 **Exercise of Power of Sale.** For any sale under the power of sale granted by this Deed of Trust, Lender or Trustee shall record and give all notices required by law and then, upon the expiration of such time as is required by law, Trustee may sell the Property upon any terms and conditions specified by Lender and permitted by applicable law. Trustee may postpone any sale by public announcement at the time and place noticed for the sale. If the Property includes several lots or parcels, Lender in its discretion may designate their order of sale or may elect to sell all of them as an entirety. The Property, real, personal and mixed, may be sold in one parcel. To the extent any of the Property sold by the Trustee is personal property, then Trustee shall be acting as the agent of the Lender in selling such Property. Any person permitted by law to do so may purchase at any sale. Upon any sale, Trustee will execute and deliver to the purchaser or purchasers a deed or deeds conveying the Property sold, but without any covenant or warranty, express or implied, and the recitals in the Trustee's deed showing that the sale was conducted in compliance with all the requirements of law shall be prima facie evidence of such

compliance and conclusive evidence thereof in favor of bona fide purchasers and encumbrances for value.

8.3 Application of Sale Proceeds. Except as may otherwise be required by law, the proceeds of any sale under this Deed of Trust will be applied in the following priority:

First: Payment of the costs and expenses of the sale, including without limitation Trustee's fees, legal fees and disbursements, title charges and transfer taxes, and payment of all expenses, liabilities and advances of Trustee, together with interest on all advances made by Trustee from date of disbursement at the applicable interest rate under the Note from time to time or at the maximum rate permitted to be charged by Trustee under the applicable law if that is less.

Second: Payment of all sums expended by Lender under the terms of this Deed of Trust and not yet repaid, together with interest on such sums from date of disbursement at the applicable interest rate under the Note from time to time or the maximum rate permitted by applicable law if that is less.

Third: Payment of all other Secured Obligations in any order that the Lender chooses.

Fourth: The remainder, if any, to the person or persons legally entitled to it.

8.4 Waiver of Order of Sale and Marshalling. Lender shall have the right to determine the order in which any or all portions of the secured indebtedness are satisfied from the proceeds realized upon the exercise of any 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 marshalling of assets in connection with the exercise of any of the remedies permitted by applicable law or provided herein, or to direct the order in which any of the Property will be sold in the event of any sale under this Deed of Trust.

8.5 Non-Waiver of Defaults. The entering upon and taking possession of the Property, the collection of Rents or the proceeds of fire and other insurance policies or compensation or awards for any taking or damage of the Property, and the application or release thereof as herein provided, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

8.6 Expenses during Redemption Period. If this Deed of Trust is foreclosed through court action and the Property sold at a foreclosure sale, the Purchaser may during any redemption period allowed, make such repairs or alterations on the Property as may be reasonably necessary for the proper operation, care, preservation, protection and insuring thereof. Any sums so paid together with interest thereon from the time of such expenditure at the greater of the default rate under the Note, or the maximum rate permitted by law, shall be added to and become a part of the amount required to be paid for redemption from such sale.

8.7 Fair Market Value. To the extent the Washington Deed of Trust Act, as now existing or hereafter amended, or other statute requires that the "fair market value" or "fair value" of the Property be determined as of the foreclosure date in order to enforce a deficiency against Grantor, Borrower or any other party liable for repayment of the Secured Obligations, the term "fair market value" or "fair value" shall include those matters required by law and the additional factors set forth below:

(i) The Property shall be valued "as is" and "with all faults" and there shall be no assumption of restoration or refurbishment of Improvements, if any, after the date of the foreclosure.

(ii) An offset to the fair market value or fair value of the Property, as determined hereunder, shall be made by deducting from such value the reasonable estimated closing costs related to the sale of the Property, including but not limited to brokerage commissions, title policy expenses, tax prorrations, escrow fees, and other common charges that are incurred by the seller of real property.

Grantor shall pay the costs of any appraisals and other expenses incurred in connection with any such determination of fair market value or fair value.

8.8 **Foreclosure Subject to Tenancies.** Lender shall have the right at its option to foreclose this Deed of Trust subject to the rights of any tenant or tenants of the Property.

8.9 **Evasion of Prepayment Terms.** If any Event of Default has occurred, a tender of payment of the indebtedness secured hereby at any time prior to or at a judicial or non-judicial foreclosure sale of the Property by Grantor, or anyone on behalf of Grantor, shall constitute an evasion of any prepayment terms of the Note and shall constitute a voluntary prepayment thereunder and any such tender shall include any prepayment premium required under the Note.

8.10 **Remedies Cumulative.** To the extent permitted by law, every right and 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 or any other agreement between Lender and Grantor, and may be exercised concurrently, independently or successively, in any order whatsoever. Lender may exercise any of its rights and remedies at its option without regard to the adequacy of its security.

8.11 **Lender's and Trustee's Costs.** Grantor shall pay all of Lender's and Trustee's Costs (as defined in Section 9.20 below) incurred in any efforts to enforce any terms of this Deed of Trust, whether or not any suit is filed, including without limitation legal fees and disbursements, foreclosure costs, appraisal fees, environmental site assessment expenses, and title charges, including without limitation, costs and expenses incurred in any bankruptcy, reorganization, liquidation, receivership, or similar proceeding. All such sums, with interest thereon, shall be additional indebtedness of Grantor secured by this Deed of Trust. Such sums shall be immediately due and payable and shall bear interest from the date of disbursement at the lesser of the default rate under the Note, or the maximum rate permitted by law.

ARTICLE 9 GENERAL

9.1 **No Offset.** Grantor's and Borrower's obligation to timely pay and perform all obligations under the Note, this Deed of Trust, and the other Loan Documents shall be absolute and unconditional and shall not be affected by any event or circumstance, including without limitation any setoff, counterclaim, abatement, suspension, recoupment, deduction, defense or any other right that Grantor, Borrower or any guarantor may have or claim against Lender or any other person or entity. The foregoing shall not constitute a waiver of any claim or demand which Grantor, Borrower or any guarantor may have in damages or otherwise against Lender or any other person or entity, provided that Grantor shall maintain a separate action thereon.

9.2 **Application of Payments.** Except as applicable law or this Deed of Trust may otherwise provide, all payments received by Lender under the Note or this Deed of Trust shall be applied by Lender in the following order of priority: Lender's and Trustee's expenses incurred in any efforts to enforce any terms of this Deed of Trust; interest payable on advances made to protect the security of this Deed of Trust; principal of such advances; amounts payable to Lender by Grantor under Article 3 for reserves; interest and late charges payable on the Note; principal of the Note; and any other Secured Obligations in such order as Lender, at its option, may determine; provided, however, that Lender may, at its option, apply any such payments received to interest or principal prior to applying such payments to interest on and principal of advances made to protect the security of this Deed of Trust.

9.3 **Reconveyance.** Upon payment of all sums secured by this Deed of Trust, Lender 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 this Property without warranty to the person or persons legally entitled thereto. The grantee in any reconveyance may be

described as the "person or persons legally entitled thereto," and the recitals therein of any matters or facts shall be conclusive proof of the truthfulness thereof. Such person or persons shall pay Trustee's reasonable costs incurred in so reconveying the Property.

9.4 **Successor Trustee.** In accordance with applicable law, Lender may from time to time appoint a successor trustee to any Trustee appointed hereunder. 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.

9.5 **Lender's Powers.** Without affecting the liability of any person for payment or performance of the Secured Obligations or any of Lender's rights or remedies, Lender, at its option, may extend the time for payment of the indebtedness secured hereby or any part thereof, reduce payment thereon, release anyone liable on any of said indebtedness, accept a renewal note or notes therefor, modify the terms and time of payment of the indebtedness, release the lien of this Deed of Trust on any part of the Property, take or release other or additional security, release or reconvey or cause to be released or reconveyed all or any part of the Property or consent and/or cause Trustee to consent to the making of any map or plat of the Property, consent or cause Trustee to consent to the granting of any easement or creating any restriction on the Property or join or cause Trustee to join in any subordination or other agreement affecting this Deed of Trust or the lien or charge hereof. Grantor shall pay Lender a reasonable service charge, together with such title insurance premiums and attorneys' fees as may be incurred at Lender's option, for any such action if taken at Grantor's request.

9.6 **Subrogation.** Lender shall be subrogated for further security to the lien, although released of record, of any and all encumbrances discharged, in whole or in part, by the proceeds of the Note or any other indebtedness secured hereby.

9.7 **Limitation on Interest and Charges.** Notwithstanding any other provision in the Note, the total liability for payments in the nature of interest shall not exceed the highest lawful rate permitted by applicable state or federal interest rate law (the "***Maximum Rate***"). If any payment in the nature of interest, additional interest, or other charges made under the Note are held to be in excess of the Maximum Rate, then in compliance with the desires of Lender and Grantor, it is agreed that the amount held to be in excess shall be considered a payment of principal, and the indebtedness evidenced by the Note shall be reduced by such amount in the inverse order of maturity so that the total liability for payments in the nature of interest, additional interest and other charges shall not exceed the Maximum Rate. No prepayment premium shall be assessed on prepayments under this Section.

9.8 **Additional Documents: Power of Attorney.** Grantor, from time to time, shall execute, acknowledge and deliver to Lender upon request, and hereby irrevocably appoints Lender its attorney-in-fact to execute, acknowledge, deliver and if appropriate file and record, such security agreements, assignments for security purposes, assignments absolute, financing statements, affidavits, certificates and other documents, in form and substance satisfactory to Lender, as Lender may request in order to perfect, preserve, continue, extend or maintain the assignments herein contained, the lien and security interest under this Deed of Trust, and the priority thereof. Grantor shall pay to Lender upon request therefor all costs and expenses incurred in connection with the preparation, execution, recording and filing of any such document.

9.9 **Waiver of Statute of Limitations.** To the full extent Grantor may do so, Grantor hereby waives the right to assert any statute of limitations as a defense to the enforcement of the lien of this Deed of Trust or to any, action brought to enforce the Note, or any other obligation secured by this Deed of Trust.

9.10 **Forbearance by Lender Not a Waiver.** Any forbearance by Lender 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, and no waiver by Lender of any particular default shall constitute a waiver of any other default or of any similar default in the future. Without limiting the generality of the foregoing,

the acceptance by Lender of payment of any sum secured by this Deed of Trust after the due date thereof shall not be a waiver of Lender'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 Lender shall not be a waiver of Lender's right to accelerate the maturity of the indebtedness secured by this Deed of Trust, nor shall Lender's receipt of any awards, proceeds or damages under Sections 2.3 and 2.7 hereof operate to cure or waive any default in payment of sums secured by this Deed of Trust.

9.11 **Waiver of Jury Trial.** LENDER AND GRANTOR WAIVE ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS DEED OF TRUST AND THE OTHER LOAN DOCUMENTS OR OTHERWISE RELATING THERETO OR ARISING FROM THE LENDING RELATIONSHIP SECURED HEREBY, AND EACH AGREES THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.

9.12 **Modifications.** Only a writing signed by Grantor and Lender may amend this Deed of Trust.

9.13 **Notice.** Any notice under this Deed of Trust shall be to the address noted and shall be deemed to have been given as provided in the Note.

9.14 **Governing Law.** This Deed of Trust shall be governed by the laws of the State of Washington.

9.15 **Severability; Captions.** If any provision or clause of this Deed of Trust conflicts with applicable law, such conflicts shall not affect other provisions or clauses hereof which can be given effect without the conflicting provision, and to this end the provisions hereof are declared to be severable. The captions and headings of the Sections and articles of this Deed of Trust are for convenience only and are not to be used to interpret or define the provisions hereof.

9.16 **Definitions.** As used herein: the term "**Grantor**" means the Grantor herein named, together with any subsequent owner of the Property or any part thereof or interest therein; the term "**Trustee**" means the Trustee herein named, together with any successor Trustee; and the term "**Lender**" means the Lender herein named, together with any subsequent owner or holder of the Note or any interest therein, including pledges, assignees and participants.

9.17 **Successors and Assigns Joint and Several Liability; Agents.** This Deed of Trust shall bind and inure to the benefit of the parties hereto and their respective heirs, devisees, legatees, administrators, executors, successors and assigns, subject to the provisions of Article 4 hereof. Each person executing this Deed of Trust as Grantor shall be jointly and severally liable for all obligations of Grantor hereunder. In exercising any rights hereunder or taking actions provided for herein, Lender and Trustee may act through their respective employees, agents or independent contractors as authorized by Lender and Trustee.

9.18 **Number; Gender.** This Deed of Trust shall be construed so that wherever applicable the use of the singular number shall include the plural number, and vice versa, and the use of any gender shall be applicable to all genders.

9.19 **Time.** Time is of the essence in connection with all obligations of Grantor herein.

9.20 **Costs.** Grantor agrees to reimburse Lender on demand for all costs, expenses and advances incurred in making, administering or collecting the Loan (together, "**Costs**"), including: fees and appraisal costs under Section 9.21 below; legal fees (including the costs and fees of paralegals) costs and expenses incurred with or without suit and in any appeal, at or in preparation for any trial, appeal or review, in any proceeding or enforcement of any rights under any present or future federal bankruptcy act or state receivership, and in any post-judgment collection proceeding; costs advanced to protect the

security and priority of this Deed of Trust; costs, expenses and other advances which may be incurred or made by Lender or Trustee in any foreclosure sale, including without limitation costs and expenses in any bankruptcy, reorganization, liquidation, receivership or similar proceedings, any cost of evidence of title, survey charges, appraiser's fees, inspecting engineer's and/or architect's fees, fees for environmental studies and assessments and all additional expenses incurred by Trustee and Lender with respect to environmental matters, outlays for documentary and expert evidence, stenographers' charges, publication costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, and similar data and assurances with respect to title as Trustee and Lender may deem reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such decree the true condition of the title to, the value of or the environmental condition of the Property. If Lender and/or Trustee, as required by applicable law, chooses to dispose of Property through more than one foreclosure sale, Grantor shall pay all Costs incurred in each of such foreclosure sales. All such Costs are secured by this Deed of Trust, are due on demand, and if not paid, shall bear interest at the default rate specified in the Note.

9.21 **Fees; Appraisal Costs.** Grantor agrees to pay fees in the maximum amounts legally permitted, or reasonable fees as may be charged by Lender when the law provides no maximum limit, for any services that Lender or Trustee may render in connection with this Deed of Trust, including providing a statement of the Secured Obligations or providing a reconveyance of this Deed of Trust under Section 9.3 above. Grantor shall also pay or reimburse all of Lender's and Trustee's costs and expenses which may be incurred in rendering any such services. If at any time Lender reasonably determines that an appraisal or reappraisal of the Property is required by any regulatory authority, or if the Financial Institutions Reform, Recovery, and Enforcement Act, as amended, or any regulatory agency, requires Lender to obtain a reappraisal of the Property, Lender shall have the right to cause the Property to be appraised or reappraised and Grantor shall reimburse (or cause Grantor to reimburse) Lender on demand for payment of the costs of such appraisal.

9.22 **Indemnification and Defense.** Grantor shall indemnify, defend, protect and hold Lender and its agents harmless from and against all liability, loss, claims, damage, fee, cost or expense (including reasonable attorney fees and other Costs) that Lender might incur in connection with the making or administering of the Loan, the enforcement of any of Lender's rights or remedies under the Loan Documents, by reason of any failure of any representation or warranty made by Grantor or Borrower, or the failure of Grantor or Borrower to perform any of the Secured Obligations, or by reason or in defense of any and all claims and demands whatsoever that may be asserted against Lender arising out of or in connection with the Property or the Loan. Grantor shall appear in and defend (with counsel acceptable to Lender) any action or proceeding purporting to affect the security of this Deed of Trust, or of any additional or other security for the Secured Obligations, or the interest of Lender or the rights, powers and duties of Trustee hereunder. Whenever, under any Loan Document, Grantor is obligated to indemnify and/or defend Lender, or Grantor is obligated to defend or prosecute any action or proceeding, then Lender shall have the right to participate in such prosecution or defense using counsel of Lender's choice, and all Costs incurred by Lender in connection with such participation (including reasonable attorney fees) shall be reimbursed by Grantor to Lender. In addition, Lender shall have the right to approve any counsel retained by Grantor in connection with the prosecution or defense of any such action or proceeding by Grantor. Grantor shall give notice to Lender of the initiation of all proceedings prosecuted or required to be defended by Grantor, or which are subject to Grantor's indemnity obligations, under this Deed of Trust, promptly after the receipt by Grantor of notice of the existence of any such proceeding, but in no event later than five (5) days thereafter. Should Lender incur any liability, loss, claim, damage, or other Cost required to be reimbursed by Grantor to Lender hereunder, such Costs are secured by this Deed of Trust, are due on demand, and if not paid, shall bear interest at the default rate specified in the Note.

9.23 **Entire Agreement.** This Deed of Trust together with the other Loan Documents constitute the entire understanding and agreement of Grantor and Lender with respect to the Secured Obligations. The Loan Documents supercede all prior negotiations, discussions, and agreements with respect to the

Secured Obligations, may not be contradicted by evidence of any alleged oral agreement, and may not be amended, modified, rescinded or terminated in any manner except by a written agreement signed by Grantor and Lender.

9.24 **Request for Notice.** Grantor hereby requests that a copy of any notice of default and notice of sale hereunder be mailed to it at its address set forth at the beginning of this Deed of Trust.

9.25 **Certain Obligations Unsecured.** Notwithstanding anything to the contrary set forth herein or any of the other Loan Documents, this Deed of Trust shall not secure the following obligations (the "**Unsecured Obligations**"): (a) any obligations evidenced by or arising under the Indemnity Agreement, (b) any other obligations in this Deed of Trust or in any of the other Loan Documents to the extent that such other obligations relate specifically to the presence on the Property of Hazardous Materials (as defined in the Indemnity Agreement) and are the same or have the same effect as any of the obligations evidenced by or arising under the Indemnity Agreement; or (c) the obligations of any guarantor of the Secured Obligations. Any breach or default with respect to the Unsecured Obligations shall constitute an Event of Default hereunder, notwithstanding the fact that such Unsecured Obligations are not secured by this Deed of Trust. Nothing in this section shall, in itself, impair or limit Lender's right to obtain a judgment in accordance with applicable law after foreclosure for any deficiency in recovery of all obligations that are secured by this Deed of Trust following foreclosure.

9.26 **Special Waivers, Warranties and Agreements of Grantor.** Grantor is pledging its interest in the Property as security for indebtedness of Borrower to Lender. Grantor represents, warrants and agrees that:

(a) The Deed of Trust granted by Grantor hereunder secures the payment and performance of all of the Secured Obligations.

(b) Grantor and the other entity comprising Borrower are affiliated entities which each have a financial interest in Borrower and/or the Property, and the financial benefits to Grantor from the Loan constitute adequate consideration for Grantor's execution of this Deed of Trust.

(c) The structure of the Loan has been devised in order to accommodate the collective organizational and operational structure and working capital needs of Grantor and Borrower in order to best serve their collective interests, and to enable Lender to assign a collective value to the Property and the other property owned by Borrower.

(d) Grantor has been informed and understands that if there is a Default or Event of Default, Grantor and Borrower must act together for purposes of curing any Defaults; and that the failure to do so could result in the foreclosure and sale, and ultimate loss, of the Property.

(e) Grantor specifically waives each and every one of the following: (i) any right to require Lender to proceed against Borrower or any other person or to proceed against or exhaust any other collateral for the Secured Obligations or pursue any other remedy in its power before foreclosing the Deed of Trust, and (ii) until all of the Secured Obligations are paid in full, any right of subrogation or any right or remedy that Grantor may have against Borrower, any guarantor, or any other person, and any benefit of or right to participate in Lender's lien on the Property or any other property or collateral.

(f) Grantor agrees that any right of reimbursement, contribution, recourse or other right or remedy Grantor may have against Borrower, any guarantor, or any other person to recover any amount that Grantor may pay Lender on account of the Secured Obligations is unconditionally subordinated to Lender's rights and remedies under this Deed of Trust.

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

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

Grantor:

NWCC INVESTMENTS IX, LLC, a Washington limited liability company

By: [Signature]
Mark McDonald, Member

By: Northwest Capital Corp., a Washington corporation, Member

By: [Signature]
Mark McDonald, President

STATE OF WASHINGTON

County of King

) ss.
)

I certify that I know or have satisfactory evidence that Mark McDonald is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as a Member of NWCC INVESTMENTS IX, LLC, and as the President of Northwest Capital Corp., a Member of NWCC INVESTMENTS IX, LLC, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this 30th day of September, 2016.

JEFFREY C. STEINERT
NOTARY PUBLIC
STATE OF WASHINGTON
COMMISSION EXPIRES
DECEMBER 29, 2016

[Signature]
Notary Public in and for the State of Washington residing at [Address]
Name (printed): Jeffrey C Steinert
My appointment expires: 12-29-16

**EXHIBIT A
to
DEED OF TRUST, ASSIGNMENT OF RENTS AND LEASES,
AND SECURITY AGREEMENT**

Legal Description

The Land is situated in Skagit County, Washington, and is legally described as follows:

The West 120 feet of Lot 10, "Plat of Mount Vernon Acreage, Skagit County, Wash.," as per plat recorded in Volume 3 of plats, page 102, records of Skagit County, Washington.

Except the South 10 feet thereof conveyed to the City of Mount Vernon by Auditor's File No. 816622.

And except that portion conveyed to the City of Mount Vernon for road purposes by deed recorded under Auditor's File No. 200902020157.

Situate in the City of Mount Vernon, County of Skagit, State of Washington