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Document Title: DEED OF TRUST AND ASSIGNMENT OF RENTS AND LEASES
Grantor: JOHN ROBERT DURGIN and JOAN WILLIAMS DURGIN, husband and wife
Grantees: KIMBERLY GOOD RUBENSTEIN, a single woman
Abbreviated Legal: Lots 6 & 7, Ptm Lot 8, Blk K, Map Of La Conner
Parcel Number: P74004/4123-011-009-0002
Reference Number(s) of Documents Affected: N/A
Full Legal Description set forth in Exhibit A of Document. *page 20*

DEED OF TRUST AND ASSIGNMENT OF RENTS AND LEASES

THIS DEED OF TRUST AND ASSIGNMENT OF RENTS AND LEASES ("Deed of Trust") is made as of January 2nd, 2019, by the grantor, JOHN ROBERT DURGIN and JOAN WILLIAMS DURGIN, husband and wife (collectively "Grantor"), whose mailing address is 7821 Highland Meadows Drive, Bronsburg, IN 46112. The trustee is LAND TITLE AND ESCROW COMPANY ("Trustee"), whose mailing address is 3010 Commercial Avenue, Anacortes, WA 98221. The beneficiary is KIMBERLY GOOD RUBENSTEIN, a single woman ("Beneficiary"), whose mailing address is 15188 Channel Drive, La Conner, Washington, 98257.

This Deed of Trust is given by Grantor to Beneficiary as collateral under the terms and conditions of the promissory note entered into contemporaneously with this Deed of Trust, as defined below.

For purposes of Article 9 of the Uniform Commercial Code (RCW 62A.9A), this Deed of Trust constitutes a Security Agreement with Grantor being the Debtor and Beneficiary 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).

In consideration of the loan ("Loan") evidenced by the Note 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 in **Exhibit A**, together with 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 substances, water and water rights, and all other rights, permits, 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, articles, and accessions 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, fire prevention and extinguishing, security and access control, cooking, gas, electric and communication fixtures, equipment, and apparatus; all conduits, pipes, pumps, tanks, ducts, compressors, boilers, water heaters, and furnaces; all ranges, stoves, disposals, refrigerators, and other appliances; all baths, sinks, cabinets, partitions, mantels, built-in mirrors, window shades, blinds, screens, awnings, storm doors, windows, and sash; and all carpeting, underpadding, floor covering, paneling, and draperies. All such items shall be deemed part of the Land.

c. All of the present and future rents, revenues, accounts, general intangibles, 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 of Grantor's assets, including, without limitation, tangible and intangible personal property now or hereafter used or acquired in connection with or in any way arising out of or related to the ownership, development, operation or maintenance of the Land and Improvements.

e. 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.

f. All proceeds (including claims and demands therefore) 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.

g. All proceeds of the foregoing.

TO SECURE THE FOLLOWING ("Secured Obligations"):

- a. Payment of the original sum of Five Hundred Twenty Thousand and No/100 Dollars (\$520,000.00), with interest thereon, according to the terms and provisions of the Promissory Note dated January 2, 2019 and as may amended hereafter (the "Note"), payable to Beneficiary together with the terms and provisions of all of the Loan Documents entered into between the parties.
- b. Payment of all other sums that are or may become owing under the Loan Documents (as hereinafter defined).
- c. Performance of all other obligations under the Loan Documents.

As used herein, the term "Loan Documents" means the Note, this Deed of Trust, the Loan Agreement, all related documents and instruments, and any and all modifications, extensions, renewals and replacements thereof. The Secured Obligations may be indexed, amended, modified, adjusted, renewed, or renegotiated.

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

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 exceptions listed on the owner's title policy (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 Beneficiary; (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) Grantor shall fully comply with all the terms of the Permitted Exceptions and shall deliver to Beneficiary a copy of all notices of default under, violation of, or other claim delivered in connection with the Permitted Exceptions; (f) after this Deed of Trust is recorded Beneficiary 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 Beneficiary, request of such parties a certificate confirming such information regarding the Permitted Exceptions as Beneficiary may request; and (g) Grantor shall forever warrant and defend the Property unto Beneficiary against all claims and demands of any other person whatsoever, subject only to nondelinquent taxes and assessments and the Permitted Exceptions. This Deed of Trust shall be, at all times, the First Deed of Trust and senior encumbrance on the Property.

1.2 Nonagricultural Use; Commercial Loan. Grantor represents and warrants to Beneficiary that: (a) the Property is not used principally for agricultural purposes; and (b) the loan secured by this Deed of Trust was not made primarily for personal, family or household purposes.

2. Grantor's Covenants.

2.1 Payment and Performance of Secured Obligations. Grantor shall pay when due all sums that are now, or that may become, owing under the Note, 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. 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. Upon request, Grantor shall promptly furnish to Beneficiary all notices of amounts due under this subparagraph and all receipts evidencing such payments.

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

c. Liens and Charges. Grantor shall promptly discharge any lien, encumbrance, or other charge (other than the Permitted Exceptions), 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 Beneficiary, may postpone or defer payment of such lien, encumbrance, or other charge so long as: (i) such proceedings shall operate to prevent the collection of the lien, encumbrance or other charge; (ii) neither the Property nor any part thereof will, by reason of such postponement or deferment, be in danger of being forfeited or lost; and (iii) Grantor, before the date such lien, encumbrance, or other charge becomes delinquent, gives such reasonable security as may be requested by Beneficiary to ensure payment thereof and prevent any forfeiture or loss of the Property or any part thereof.

d. Taxes, Assessments and Other Charges Imposed on Beneficiary. If, at any time after the date of this Deed of Trust, any law is enacted or changed (including any interpretation thereof) that subjects Beneficiary 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 Beneficiary on demand; provided that, if any such payment would be unlawful, Beneficiary 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:

(1) Insurance against loss by fire and the hazards now or hereafter covered by the standard "All Risk" (Builders Risk) form of insurance, in an amount equal at all times to the full insurable value of the Improvements. 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 endorsement with a waiver of the coinsurance clause (or an agreed amount endorsement with an inflation guard endorsement), and shall contain such other endorsements as Beneficiary may reasonably request. All such endorsements shall be in form and substance reasonably satisfactory to Beneficiary.

(2) Commercial general 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 Beneficiary.

b. Policies. Each insurance policy shall be with a company and in a form acceptable to Beneficiary. Each hazard insurance policy shall include a lender's loss payable endorsement in favor of Beneficiary. Each liability insurance policy shall name Beneficiary as an additional insured. All required policies will provide for at least ten (10) days' written notice to Beneficiary 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 Beneficiary a copy of each required insurance policy, 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 Beneficiary 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 Beneficiary copies of all renewal notices relating to insurance policies. 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 Beneficiary a copy of a renewal policy in a form acceptable to Beneficiary, together with evidence that the renewal premium has been paid. Should Grantor not pay the premiums on each insurance policy, or not promptly furnish to Beneficiary such insurance as required in the Loan Documents, Beneficiary may obtain such insurance, which shall be at the expense of Grantor and treated as an advance under the Loan.

d. Application of Insurance Proceeds. In the event of any material loss, Grantor shall give prompt written notice thereof to the insurance carrier and Beneficiary. Grantor hereby authorizes Beneficiary as Grantor's attorney-in-fact to make proof of loss, to adjust and compromise any claim, to commence, appear in and prosecute, in Beneficiary's or

Grantor's name, any action relating to any claim, and to collect and receive insurance proceeds; provided, however, that Beneficiary shall have no obligation to do so. Beneficiary shall apply any insurance proceeds received by her 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:

(1) 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 payments under the Note, or change the amounts thereof; or

(2) The reimbursement of Grantor, under Beneficiary's prescribed disbursement control procedures, for the cost of restoration or repair of the Property. Beneficiary may, at its option, condition the reimbursement on Beneficiary'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 Beneficiary 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 for in Section 2.4, regardless of whether or not there are insurance proceeds available or whether any such proceeds are sufficient in amount.

e. Application of Insurance Proceeds to Restoration. Notwithstanding the provisions of Section 2.3(d), Grantor, rather than Beneficiary, shall have the right to direct the application of insurance proceeds to payment of the Secured Obligations or to repair or restoration of the Property upon satisfaction of the following conditions:

(1) There is then no Event of Default nor any event or condition which would be an Event of Default if not cured within the time allowed.

(2) If the proceeds are to be applied to repair or restoration, then in addition to the matters required under Section 2.3(d)(2) above, Beneficiary shall have approved each of the following with respect to the repair or restoration: (i) the construction contract, and if required by Beneficiary, payment and performance bonds with dual obligee rider; (ii) evidence that the insurance proceeds are adequate to restore the Property to its condition immediately prior to the casualty, and if insufficient, the deficiency shall be deposited with Beneficiary for disbursement prior to disbursement of insurance proceeds; (iii) evidence that Grantor has funds sufficient to pay operating expenses, taxes, debt service, and other carrying costs of the Property through the period of repair or restoration; (iv) evidence that upon such repair or restoration the Property will be in compliance with all applicable laws, ordinances and regulations; (v) evidence that such repair or restoration of the Property will be completed at

least 30 days before the current maturity date under the Note; and (vi) evidence that upon the completion of any such repair or restoration the Property will produce sufficient income and be of sufficient value to be adequate security for the Secured Obligations.

(3) Grantor shall execute and deliver to Beneficiary such additional security documents and instruments as Beneficiary deems necessary to continue and to perfect Beneficiary's security interests in and liens on the Property.

f. Transfer of Title. If the Property is sold pursuant to Section 3, or if Beneficiary otherwise acquires title to the Property, Beneficiary 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 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; (iv) keep the Property, including, 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 Beneficiary's prior written consent. Beneficiary shall not unreasonably withhold or delay its consent to minor structural alterations if Grantor furnishes plans and assurances that the work will be completed in good workmanlike quality and Beneficiary determines in its reasonable business judgment that the value of the Property will not be materially and adversely affected. Grantor shall not remove any fixture or chattel covered by this Deed of Trust and adapted to the use and enjoyment of the Property at any time without Beneficiary's prior written 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. Beneficiary 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 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 its intended use, and pay all fees and charges in connection therewith. 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 acquiesce in a change in the zoning classification of the Property without Beneficiary's prior written consent.

2.6 Condemnation.

a. Proceedings. Grantor shall promptly notify Beneficiary 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 Beneficiary in writing. Grantor authorizes Beneficiary, at Beneficiary's option, as attorney-in-fact for Grantor, to commence, appear in, and prosecute, in Beneficiary'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 such 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 Beneficiary, and all proceeds of any such awards, payments, damages or claims shall be paid to Beneficiary.

b. Application of Condemnation Proceeds. Beneficiary 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.

2.7 Protection of Beneficiary's Security. Grantor shall give notice to Beneficiary of, and shall appear in and defend, any action or proceeding that may affect the Property, the interests of Beneficiary or Trustee therein, or the rights or remedies of Beneficiary or Trustee under the Loan Documents. If any such action or proceeding is commenced and there is an uncured Event of Default, or Grantor fails to perform any of the Secured Obligations, Beneficiary or Trustee may, at their option, make any appearances, disburse any sums, pay or settle any claims that have resulted in or may result in a lien of any portion of the property, make any entries upon the Property and take any actions as may be necessary or desirable to: (i) protect or enforce the security of this Deed of Trust; (ii) remedy Grantor's failure to perform the Secured Obligations (without waiving such default by Grantor); or (iii) otherwise protect Beneficiary's or Trustee's interests. Grantor shall pay all losses, damages, fees, costs, and expenses incurred by Beneficiary and Trustee in taking such actions; including, without limitation, legal fees and costs.

2.8 Reimbursement of Beneficiary's and Trustee's Expenses. All amounts disbursed by Beneficiary and Trustee pursuant to Section 2.7 or any other provision of this Deed of Trust or the other Loan Documents, with interest thereon at the default rate set forth in

the Note from the date of disbursement until repaid, shall constitute a Secured Obligation. All such amounts shall be immediately due and payable and bear interest from the date of disbursement at the lesser of the default rate set forth in the Note, or the maximum rate permitted by law.

2.9 Books and Records on Property. Grantor shall keep and maintain at Grantor's address stated above, or such other place as Beneficiary may approve in writing, books of account and records adequate to reflect correctly the results of operation of the Property and copies of all written contracts, leases, and other documents affecting the Property. Such books, records, contracts, leases, and other documents shall be subject to examination, inspection, and copying at any reasonable time by Beneficiary.

3. Restrictions on Transfer or Encumbrance. Neither the Property, nor any part thereof, or interest therein, shall be encumbered, sold (by contract or otherwise), or conveyed, gifted, or otherwise transferred by Grantor; nor shall there be any change in the ownership or control of any of the membership interests in Grantor. Any such action without Beneficiary's prior written consent shall be deemed to increase the risk of Beneficiary and shall constitute an Event of Default if not corrected within five days after Beneficiary's delivery of written demand to Grantor. Beneficiary may, in its sole discretion, consent to any such action subject to such terms and conditions as Beneficiary may require.

4. Uniform Commercial Code Security Agreement.

4.1 Grant to Beneficiary. This Deed of Trust constitutes a security agreement pursuant to the Uniform Commercial Code with respect to:

a. Any of the Property that, 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 Beneficiary 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 Grantor hereby grants Beneficiary a security interest in all property described in clauses (a) and (b) above as security for the Secured Obligations. Grantor and Beneficiary agree, however, that neither the foregoing grant of a security interest nor the filing of any such 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, or which is described or reflected in this Deed of Trust, is and at all times shall be regarded as part of the Land.

4.2 Beneficiary's Rights and Remedies. With respect to the Property subject to the foregoing security interest, Beneficiary shall have all of the rights and remedies: (a) of a secured

party under the Uniform Commercial Code; (b) 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 (c) provided by law. In exercising its remedies, Beneficiary 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 Beneficiary's remedies. Upon demand by Beneficiary following an Event of Default hereunder, Grantor shall assemble any items of personal property and make them available to Beneficiary at the Land. Beneficiary shall give Grantor at least five days' prior written notice of the time and place of any public sale or other disposition of such Property 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. Such Property may be sold at any one or more public or private sales as permitted by applicable law.

5. Assignment of Rents and Leases.

5.1 Assignment of Rents and Leases. As security for the Secured Obligations, Grantor assigns and transfers to Beneficiary and grants Beneficiary a security interest in and to all right, title and interest of Grantor in and to: (a) 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"); (b) all cash or security deposits, advance rentals, and deposits of a similar nature under the Leases; (c) any and all guarantees of tenants' or occupants' performances under any and all Leases; and (d) all rents, 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.

5.2 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 Beneficiary 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, and third 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 Beneficiary to Grantor of an Event of Default hereunder and stating that Beneficiary exercises its rights to the Rents, and without the necessity of Beneficiary entering upon and taking and maintaining full control of the Property in person, by agent or by a court-appointed receiver, Beneficiary 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 Beneficiary only. Upon delivery of such written notice by Beneficiary, Grantor hereby agrees to direct each tenant or occupant of the Property to pay all Rents to Beneficiary on Beneficiary's written demand therefore, without any liability on the part of said tenant or occupant to inquire further as to the

existence of an Event of Default by Grantor. Grantor hereby authorizes Beneficiary 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 Beneficiary by tenants or occupants shall, as to such tenants and occupants, be in discharge of the payors' obligations to Grantor. Beneficiary may exercise, in Beneficiary'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 Beneficiary to perform any of Grantor's obligations under any of the Leases.

5.3 Grantor's Representations and Warranties. Grantor hereby represents and warrants to Beneficiary 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 Beneficiary from exercising its rights under this Section 5. Grantor shall execute and deliver to Beneficiary such further assignments of Rents and Leases of the Property as Beneficiary may from time to time request.

5.4 Beneficiary in Possession; Appointment of Receiver. Upon any Event of Default, Beneficiary may, in person, by agent, or by a court-appointed receiver, regardless of the adequacy of Beneficiary'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 Beneficiary to protect the security of this Deed of Trust. From and after any Event of Default, if any owner of the Property shall occupy the Property or part thereof such owner shall pay to Beneficiary in advance on the first day of each month a reasonable rental for the space so occupied, and upon failure so to do Beneficiary shall be entitled to remove such owner from the Property by any appropriate action or proceedings. Following an Event of Default, Beneficiary shall be entitled (regardless of the adequacy of Beneficiary's security) to the appointment of a receiver, Grantor hereby consenting to the appointment of such receiver. Said receiver may serve without bond and may be Beneficiary or an employee of Beneficiary. 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 Beneficiary in this Section 5. Beneficiary or the receiver shall be entitled to receive a reasonable fee for so managing the Property.

5.5 Application of Rents. All Rents collected subsequent to delivery of written notice by Beneficiary to Grantor of an Event of Default shall be applied first to the costs, if any, of taking control of and managing the Property and collecting the Rents, including, without limitation, attorneys' fees, receiver's 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 other Secured Obligations. Beneficiary or the receiver shall be liable to account only for those Rents actually received. Beneficiary 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 Beneficiary under this Section.

5.6 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, plus interest, shall constitute a Secured Obligation. Such excess sums shall be payable upon demand by Beneficiary and shall bear interest from the date of disbursement at the lesser of the default rate set forth in the Note, or the maximum rate permitted by law.

5.7 Beneficiary Not Mortgagee in Possession. Nothing herein shall constitute Beneficiary 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 Beneficiary.

5.8 Enforcement. Beneficiary may enforce this assignment without first resorting to or exhausting any security or collateral for the Secured Obligations.

6. Events of Default.

6.1 Events of Default. Any one or more of the following is an "Event of Default" under this Deed of Trust:

- a. Borrower fails to make any payment under this Note or under any other Loan Document within five (5) calendar days from its due date;
- b. Borrower breaks any promise Borrower has made to Lender or Borrower fails to comply with or perform when due any other term, obligation, covenant, or condition contained in this Note, the Purchase Agreement or any other Loan Document;
- c. Borrower is in default of any other loan or agreement with Lender;
- d. The falsification or misrepresentation of any representation, statement or warranty by Borrower to Lender contained in this Note, the Purchase Agreement, or any other Loan Document;
- e. The filing of a complaint for receivership against Borrower or the filing of a voluntary or involuntary petition for bankruptcy or for reorganization by or against Borrower (unless such complaint or petition is released or discharged within sixty (60) days of such filing), or Borrower voluntarily suspends its usual business;

f. The occurrence of any material change or modification in the terms or conditions of any loans secured by the assets of Borrower, without having obtained Lender's prior written consent thereto; or

g. Borrower enters into any other loan agreement, financing, or other obligation during the term of this Note unless consented to by Lender in advance.

6.2 Inapplicability of Cure Periods. All cure periods provided in this Deed of Trust or the other Loan Documents shall be inapplicable if, in Beneficiary's reasonable judgment, the default is not capable of being cured within the time allowed, or a delay in Beneficiary's enforcement of its rights and remedies is likely to result in a material impairment of its security.

6.3 Form of Notice. At Beneficiary'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 Beneficiary may elect.

7. Remedies.

7.1 Acceleration Upon Default; Additional Remedies. Upon any Event of Default, Beneficiary may, at its option upon ten (10) days after notice of default is given to 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. Obtain a deficiency judgment if the net sales proceeds of any sale of the Property under the power of sale granted by this Deed of Trust are insufficient to pay in full all of the Secured Obligations.
- f. Elect to exercise its rights with respect to the Leases and the Rents.
- g. Exercise any or all of the other rights and remedies under this Deed of Trust and the other Loan Documents.
- h. Exercise any other right or remedy available under law or in equity.

7.2 Exercise of Power of Sale. For any sale under the power of sale granted by this Deed of Trust, Beneficiary 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 Beneficiary 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, Beneficiary 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 Beneficiary 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 encumbrancers for value.

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

a. Payment of the costs and expenses of the sale; including, without limitation, Trustee's fees, reasonable 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 lesser of the default rate set forth in the Note, or the maximum rate permitted by law.

b. Payment of all sums expended by Beneficiary under the terms of this Deed of Trust and not yet repaid, together with interest on such sums from date of disbursement at the lesser of the default rate set forth in the Note, or the maximum rate permitted by law.

c. Payment of all other Secured Obligations in any order that Beneficiary chooses.

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

7.4 Waiver of Order of Sale and Marshalling. Beneficiary shall have the right to determine the order in which any or all portions of the Secured Obligations are satisfied from the proceeds realized upon the exercise of any remedies provided herein. To the fullest extent permitted by law, 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.

7.5 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.

7.6 Expenses During Redemption Period. If this Deed of Trust is foreclosed as a mortgage, 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 lesser of the default rate set forth in 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.

7.7 Foreclosure Subject to Tenancies. Beneficiary 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.

7.8 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 Beneficiary and Grantor, and may be exercised concurrently, independently, or successively, in any order whatsoever. Beneficiary may exercise any of its rights and remedies at its option without regard to the adequacy of its security.

7.9 Beneficiary's and Trustee's Expenses. Grantor shall pay all of Beneficiary's and Trustee's expenses 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, title charges, 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 set forth in the Note, or the maximum rate permitted by law.

8. General.

8.1 No Offset. Grantor'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 or any guarantor may have or claim against Beneficiary or any other person or entity. The foregoing shall not constitute a waiver of any claim or demand which Grantor or any guarantor may have in damages or otherwise against Beneficiary or any other person or entity; provided that Grantor shall maintain a separate action thereon.

8.2 Application of Payments. Except as applicable law or this Deed of Trust may otherwise provide, all payments received by Beneficiary under the Note or this Deed of Trust shall be applied by Beneficiary in the following order of priority: (a) Beneficiary's and

Trustee's expenses incurred in any efforts to enforce any terms of this Deed of Trust; (b) interest payable on advances made to protect the security of this Deed of Trust; (c) principal of such advances; (d) amounts payable to Beneficiary by Grantor under Section 3 for reserves; (e) interest and late charges payable on the Note; (f) principal of the Note; and (g) any other Secured Obligations in such order as Beneficiary, at its option, may determine; provided, however, that Beneficiary may, at its option, apply any such payments received to interest on or principal of the Note prior to applying such payments to interest on and principal of advances made to protect the security of this Deed of Trust.

8.3 Reconveyance. Upon payment of all Secured Obligations, Beneficiary shall request Trustee to reconvey the Property and shall surrender this Deed of Trust and all notes evidencing the Secured Obligations to Trustee. Trustee shall reconvey the 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.

8.4 Successor Trustee. In accordance with applicable law, Beneficiary 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.

8.5 Beneficiary's Powers. Without affecting the liability of any person for payment or performance of the Secured Obligations or any of Beneficiary's rights or remedies, Beneficiary, at its option, may extend the time for payment of the Secured Obligations or any part thereof, reduce payment thereon, release anyone liable thereon, accept a renewal note or notes therefore, modify the terms and time of payment thereof, 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 Beneficiary a reasonable service charge, together with such title insurance premiums and attorneys' fees as may be incurred at Beneficiary's option, for any such action if taken at Grantor's request.

8.6 Subrogation. Beneficiary 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.

8.7 Limitation on Interest and Charges. The interest, fees, and charges under the Loan Documents shall not exceed the maximum amounts permitted by any applicable law. If any such interest, fee or charge exceeds the maximum, the interest, fee or charge shall be reduced by the excess and any excess amounts already collected from Grantor shall be refunded. Beneficiary may refund such excess either by treating the excess as a prepayment of principal

under the Note or by making a direct payment to Grantor. The provisions of this Section shall control over any inconsistent provision in the Loan Documents.

8.8 Additional Documents; Power of Attorney. Grantor, from time to time, shall execute, acknowledge and deliver to Beneficiary upon request, and hereby irrevocably appoints Beneficiary its attorney-in-fact, exercisable upon an Event of Default, 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 Beneficiary, as Beneficiary may request in order to perfect, preserve, continue, extend in time or maintain the assignments herein contained, the lien and security interest under this Deed of Trust, and the priority thereof Grantor shall pay to Beneficiary upon request therefore all costs and expenses incurred in connection with the preparation, execution, recording and filing of any such document. Grantor hereby authorizes Beneficiary to cause to be filed such financing statements as reasonably deemed necessary to perfect, preserve, continue, extend in time, or maintain the liens and security interests herein contained.

8.9 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, and no waiver by Beneficiary 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 Beneficiary of payment of any of the Secured Obligations after the due date thereof 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 Sections 2.3 and 2.6 operate to cure or waive Grantor's default in payment of the Secured Obligations.

8.10 Entire Agreement; Modifications and Waivers. This Deed of Trust, together with the other Loan Documents, constitute the entire understanding and agreement of Grantor and Beneficiary with respect to the Loan. The Loan Documents supersede all prior negotiations, discussions, and agreements with respect to the Loan, may not be contradicted by evidence of any alleged oral agreement, and may not be waived, changed, discharged, or terminated except by an instrument in writing signed by the party against whom enforcement of any waiver, change, discharge or termination is sought.

8.11 Notice. Any notice under this Deed of Trust shall be delivered or mailed, return receipt requested, to the parties at the addresses noted above. Either party may change its address by delivery of written notice to the other. Notices which are mailed shall be deemed delivered three (3) days after its postmark.

8.12 Governing Law; Severability; Captions. Except to the extent that the federal laws of the United States of America provide Beneficiary with greater rights or remedies, this

Deed of Trust shall be governed by the laws of the State of Washington. 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 paragraphs and Sections of this Deed of Trust are for convenience only and are not to be used to interpret or define the provisions hereof.

8.13 Definitions. As used herein: the term "Grantor" means 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 "Beneficiary" means Beneficiary herein named, together with any subsequent owner or holder of the Note or any interest therein, including pledges, assignees, and participants.

8.14 Successors and Assigns; 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 Section 3. In exercising any rights hereunder or taking actions provided for herein, Beneficiary and Trustee may act through their respective employees, agents or independent contractors as authorized by Beneficiary and Trustee.

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

8.16 Assignment of Loan Documents. Beneficiary may assign the Loan Documents in whole or in part. Beneficiary may make available to any proposed assignee or participant all credit and financial data with respect to Grantor and any guarantor as may be in the possession of Beneficiary. Grantor agrees to provide any additional information that any proposed assignee or participant may reasonably request.

8.17 Estoppel Certificate. Grantor shall, within ten days after receipt of Beneficiary's written request, furnish Beneficiary or any other party designated by Beneficiary with a written statement, duly acknowledged, setting forth the amount of the Secured Obligations and otherwise confirming the status of the Secured Obligations, the Property and the Loan Documents.

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

[Signatures on following page]

**EXHIBIT A
to Deed of Trust
Legal Description**

Title Order No.: **02-170247-OE**

PARCEL "A":

Lots 6, 7 and 8, Block K, "MAP OF LACONNER, WHATCOM COUNTY, WASHN. TERRY., 1872," as per plat recorded in Volume 2 of Plats, page 49, records of Skagit County, Washington.

EXCEPT the South 7.03 feet of said Lot 8.

TOGETHER WITH all of the alley adjacent thereto as shown on the face of said plat.

Situate in the County of Skagit, State of Washington.

PARCEL "B":

ALSO, TOGETHER WITH a non-exclusive easement for the purpose of maintaining an underground water line for residential water service over portions of Lots 8 and 9 in said Block K, as conveyed by instrument recorded August 13, 2003, under Auditor's File No. 200308130113, records of Skagit County, Washington.

Situate in the County of Skagit, State of Washington.

EXHIBIT A