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, Skagit County Auditor

12/22/2000 Page 1 of 9 9:48:25AM

After Recording, Return To:  
Frank J. Brown  
108 2<sup>nd</sup> Ave. S., #403  
Kirkland, WA 98033

**DEED OF TRUST**

FIRST AMERICAN TITLE CO.

A60463

Grantor: LANDEX ASSOCIATES, INC., a Washington corporation

Grantee: FRANK J. BROWN and CARLEEN BROWN, husband and wife

Abbreviated Legal description: Section 4, Township 34, Range 2; Ptn. SE – SE and  
Section 9, Township 34, Range 2; Ptn. Gov. Lots 1 and 2.

Full legal description shown on Exhibit 1, pages 9-

Assessor's Tax Parcel Numbers: 340204-4-019-0100 R106852; 340209-1-004-0100  
R106855

THIS DEED OF TRUST, made this 13th day of December, 2000, between  
LANDEX ASSOCIATES, INC., a Washington corporation ("Grantor"), whose address  
is 8667 Southridge Place, Anacortes, WA 98221, FIRST AMERICAN TITLE  
INSURANCE COMPANY, INC. ("Trustee"), whose address is P.O. Box 1667, 1301-B  
Riverside Dr., Mount Vernon, WA 98273 and FRANK J. BROWN and CARLEEN  
BROWN, husband and wife ("Beneficiary"), whose address is 108 2<sup>nd</sup> Ave. S., #403,  
Kirkland, WA 98033.

**WITNESSETH:**

Grantor hereby bargains, sells and conveys to Trustee in trust, with power of  
sale, the real property in Skagit County, Washington described on Exhibit 1, which  
real property is not used principally for agricultural or farming purposes, together with  
all the tenements, hereditaments, and appurtenances now or hereafter thereunto  
belonging or in any wise appertaining, and the rents, issues and profits thereof.

This Deed is for the purpose of securing performance of each agreement of  
Grantor herein contained, and payment of the sum of Two Hundred Fifty Thousand

and no/100ths Dollars (\$250,000.00) with interest, in accordance with the terms of a promissory note ( sometimes referred to herein as the "Note") of even date herewith, payable to Beneficiary or order, and made by Grantor, and all renewals, modifications and extensions thereof, and also such further sums as may be advanced or loaned by Beneficiary to Grantor, or any of their successors or assigns, together with interest thereon at such rate as shall be agreed upon.

To protect the security of this Deed of Trust, Grantor covenants and agrees:

1. To keep the property in good condition and repair; to permit no waste thereof; to complete any building, structure or improvement being built or about to be built thereon; to restore promptly any building, structure or improvement thereon which may be damaged or destroyed; and to comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting the property.

2. To pay before delinquent all lawful taxes and assessments upon the property; to keep the property free and clear of all other charges, liens or encumbrances impairing the security of this Deed of trust.

3. To keep all buildings now or hereafter erected on the property described herein continuously insured against loss by fire or other hazards in an amount at all times equal to 100% of the replacement value of the improvements located on the property. All policies shall be held by the Beneficiary, and be in such companies as the Beneficiary may approve and have loss payable first to the Beneficiary, as its interest may appear, and then to the Grantor. The amount collected under any insurance policy may be applied upon any indebtedness hereby secured in such order as the Beneficiary shall determine. Such application by the Beneficiary shall not cause discontinuance of any proceedings to foreclose this Deed of Trust. In the event of foreclosure, all rights of the Grantor in insurance policies then in force shall pass to the purchaser at the foreclosure sale.

Grantor's insurance policy will include a form 438BFU or equivalent mortgagee endorsement in favor of and in form acceptable to Beneficiary and will contain an endorsement providing at least thirty (30) days' written notice to Beneficiary prior to the effective date of any cancellation or material change, which includes any reduction in the scope or limits of coverage. Grantor shall furnish to Beneficiary a certificate of insurance setting forth the coverage, the limits of liability, the carrier, the policy number and the expiration date. As additional security for obligations secured hereby, Grantor hereby assigns to Beneficiary the required insurance policy, together with all proceeds thereof, rights thereto and all unearned premiums returnable upon cancellation.



4. To defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee, and to pay all costs and expenses, including cost of title search and attorneys' fees in a reasonable amount, in any such action or proceeding, and in any suit brought by Beneficiary to foreclose this Deed of Trust.

5. To pay all costs, fees and expenses in connection with this Deed of Trust, including the expenses of the Trustee incurred in enforcing the obligation secured hereby and Trustee's and attorneys' fees actually incurred, as provided by statute.

6. Should Grantor fail to pay when due any taxes, assessments, insurance premiums, liens, encumbrances or other charges against the property hereinabove described, Beneficiary may pay the same, and the amount so paid, with interest at the rate set forth in the note secured hereby, shall be added to and become a part of the debt secured in this Deed of Trust.

7. In addition to the items described in the Deed of Trust, the following described estate, property and rights of Grantor are also included as security for the payment and performance of each covenant agreement of Grantor contained in the Deed of Trust:

All improvements, appurtenances and fixtures of every kind and character now or hereafter located or erected on or affixed or attached to the property, and all window coverings, drapes and rods, carpeting and floor coverings, fire sprinklers and alarms, and all replacements and additions thereto, it being intended and agreed that all such items shall be conclusively considered to be part of the real property conveyed by the Deed of Trust.

8. Grantor will promptly pay and perform when due all Grantor's obligations hereunder.

9. The restoration referred to in paragraph 1 of the Deed of Trust shall be done in a good and workmanlike manner and, in the event of damage or destruction, the property and all improvements thereon shall be restored to the equivalent of its original condition, whether or not insurance proceeds are available to cover in whole or in part the costs of such restoration.

10. Except as otherwise provided below, any sale, assignment, encumbrance, pledge, hypothecation, or any other transfer or disposition of all or any part of the property or all or any part of Grantor's interest therein ("Transfer"), without



Beneficiary's prior written consent, which Beneficiary may withhold for any reason, and whether any such Transfer is direct or indirect, voluntary, involuntary or occurs by operation of law, shall constitute an event of default under the Deed of Trust. This provision shall apply to each and every Transfer, whether or not Beneficiary has consented or waived its rights, in connection with any previous Transfer. Provided, so long as no default exists under either this Deed of Trust, or the Note secured hereby:

(a) Grantor shall be allowed to sell, assign, transfer or dispose of all or any part of the property or all or any part of Grantor's interest therein, without Beneficiary's prior written consent, so long as Grantor has first given Beneficiary at least fifteen days advance written notice of any such event, which notice shall at a minimum describe the name, business address, official address and telephone number of the proposed transferee, a description of the terms of any such transfer and such other information concerning the proposed transfer and the proposed transferee as Beneficiary may reasonably request and so long as prior to any such event the proposed transferee has executed and delivered to Beneficiary a document in form satisfactory to Beneficiary in which the proposed transferee acknowledges that any interest in the property to be acquired by the proposed transferee is subject to and inferior to the lien of this Deed of Trust and in which the proposed transferee agrees to be bound by and to comply with and to assume and perform all of the terms, conditions and restrictions contained in this Deed of Trust, and

(b) Grantor shall be allowed to further encumber all or any part of the property or all or any part of Grantor's interest therein for the purpose of obtaining a loan subordinate to the loan secured by this Deed of Trust, without Beneficiary's prior written consent, so long as Grantor has first given Beneficiary at least fifteen days advance written notice of any such event, which notice shall at a minimum describe the name, business address, official address and telephone number of the proposed subordinate lender, a description of the terms of any such subordinate loan and such other information concerning the proposed subordinate loan and the proposed subordinate lender as Beneficiary may reasonably request. Grantor's ability to create such further encumbrance is conditioned upon Beneficiary's receipt of an endorsement to Beneficiary's title policy (extended mortgage policy) which insures the priority of Beneficiary's future advances over the subordinate loan security, the premium for which shall be paid by Grantor, and is further conditioned upon a written agreement executed by the subordinate lender in favor of Beneficiary to the effect that:



(i) The subordinate lien is junior to all security for the Note, including any extensions or modifications thereof and future advances (whether or not obligatory) pursuant to such security; and

(ii) Any default under any of the subordinate loan documents shall constitute a default under the Note; and

(iii) The subordinate lender shall give Beneficiary copies of all notices of default or notices relating to any remedy of the subordinate loan documents, and shall permit Beneficiary a reasonable opportunity, without obligation, to cure such defaults, and that any sum so expended by Beneficiary shall be added to the principal of the Note, be repayable upon demand, bear interest at the Default Rate specified in the Note from the date of advance to and including the date of collection, and be secured by this Deed of Trust with priority over the subordinate financing; and

(iv) The provisions in this Deed of Trust shall be controlling over the provisions of the subordinate loan documents; and

(v) The subordinate lender waives all rights, legal and equitable, that it may have to require the marshalling of assets or to require the sale of assets in a particular order; and

(vi) The subordinate lender shall cause any successor or assignee of the subordinate loan documents to be bound by the same terms, conditions and restrictions.

11. As additional security hereunder, Grantor hereby assigns to Beneficiary the rents of the property, provided that prior to an event of default hereunder or under the Note or upon an abandonment of the property, Grantor shall have the right to collect and retain such rents as they become due and payable.

Upon an event of default hereunder or under the Note or upon an abandonment of the property, Beneficiary, in person, by agent or by judicially appointed receiver, shall be entitled to enter upon, take possession of and manage the property and to collect the rents of the property, including those past due. All rents collected by Beneficiary or the receiver shall be applied first to payment of the costs of management of the property and collection of rents, including, but not limited to, receiver's fees, premiums on receiver's bonds and reasonable attorney's fees, and then to the sums secured by this Deed of Trust. Beneficiary and the receiver shall be liable to account only for those rents actually received.



12. 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. "Hazardous Substances" means petroleum, petroleum product, natural or synthetic gas, asbestos, urea formaldehyde, radon gas, polychlorinated biphenyls, and any substances or material which may be hazardous to the health or safety of any person, including 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.

13. The Deed of Trust cannot be waived, changed, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of any waiver, change, discharge or termination is sought.

14. Notices under the Deed of Trust shall be in writing and shall be sent as registered or certified mail, postage prepaid, directed to such party at the address noted at the beginning of the Deed of Trust, or such other address as the party may indicate by written notice to the other pursuant to this section. Such notices shall be deemed effective on the earlier of (a) the actual date of delivery of the notice to the address of the party, and not a named person, as evidenced by the certified or registered mail return receipt, or (b) the third business day after the date of mailing.

15. Grantor's obligation to timely pay and perform all obligations under the Note and this Deed of Trust shall be absolute and unconditional and shall not be affected by any event or circumstance including, without obligation, any setoff, counterclaim, abatement, suspension, recoupment, deduction, defense or any other right that Grantor 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 may have in damages or otherwise against Beneficiary or any other person or entity, provided that Grantor shall maintain a separate action thereon.

IT IS MUTUALLY AGREED THAT:

1. In the event any portion of the property is taken or damaged in an eminent domain proceeding, the entire amount of the award or such portion as may be necessary to fully satisfy the obligation secured hereby, shall be paid to Beneficiary to be applied to said obligation.

2. By accepting payment of any sum secured hereby after its due date, Beneficiary does not waive its right to require prompt payment when due of all other sums so secured or to declare default for failure to so pay.





3. The Trustee shall reconvey all or any part of the property covered by this Deed of Trust to the person entitled thereto on written request of the Grantor and the Beneficiary, or upon satisfaction of the obligation secured and written request for reconveyance made by the Beneficiary or the person entitled thereto.

4. Upon default by Grantor in the payment of any indebtedness secured hereby or in the performance of any agreement contained herein, all sums secured hereby shall immediately become due and payable at the option of the Beneficiary. In such event and upon written request of Beneficiary, Trustee shall sell the trust property, in accordance with the Deed of Trust Act of the State of Washington, at public auction to the highest bidder. Any person except Trustee may bid at Trustee's sale. Trustee shall apply the proceeds of the sale as follows: (1) to the expense of the sale, including a reasonable Trustee's fee and attorneys' fee; (2) to the obligation secured by this Deed of Trust; (3) the surplus, if any, shall be distributed to the persons entitled thereto.

5. Trustee shall deliver to the purchaser at the sale its deed, without warranty, which shall convey to the purchaser the interest in the property which Grantor had or had the power to convey at the time of his execution of this Deed of Trust, and such as he may have acquired thereafter, Trustee's deed shall recite the facts showing that the sale was conducted in compliance with all the requirements of law and of this Deed of Trust, which recital shall be prima facie evidence of such compliance and conclusive evidence thereof in favor of bona fide purchasers and encumbrancers for value.

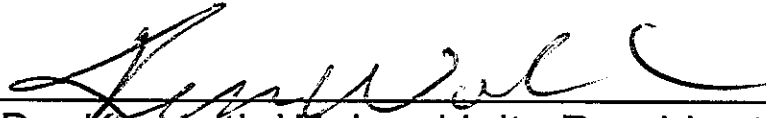
6. The power of sale conferred by this Deed of Trust is not an exclusive remedy; Beneficiary may cause this Deed of Trust to be foreclosed as a mortgage.

7. In the event of the death, incapacity, disability or resignation of Trustee, Beneficiary may appoint in writing a successor trustee, and upon the recording of such appointment in the mortgage records of the county in which this Deed of Trust is recorded, the successor trustee shall be vested with all powers of the original trustee. The trustee is not obligated to notify any party hereto of pending sale under any other deed of trust or of any action or proceeding in which Grantor, Trustee or Beneficiary shall be a party unless such action or proceeding is brought by the Trustee.

8. This Deed of Trust applies to, inures to the benefit of, and is binding not only on the parties hereto, but on their heirs, devisees, legatees, administrators, executors and assigns. The term Beneficiary shall mean the holder and owner of the note secured hereby, whether or not named as Beneficiary herein.



GRANTOR:  
LANDEX ASSOCIATES, INC.

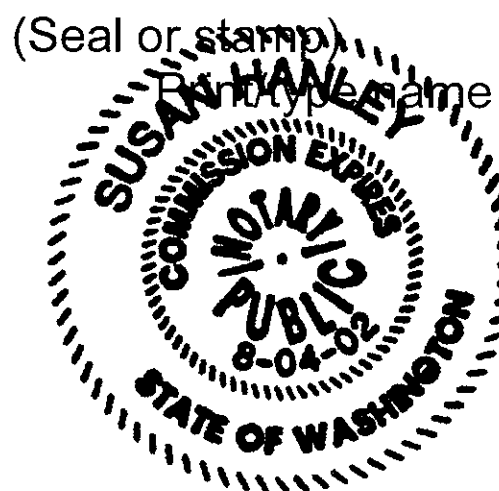
  
By Kenneth Wolcoski, its President

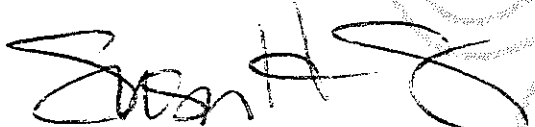
STATE OF WASHINGTON     )  
  ) ss.  
COUNTY OF KING         )

On this 19<sup>th</sup> day of December, 2000, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Kenneth Wolcoski to me known to be the person who signed as President of Landex Associates, Inc., a Washington corporation, the corporation that executed the within and foregoing Deed of Trust, and acknowledged said Deed of Trust to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath stated that he was duly elected, qualified and acting as said officer of the corporation and that he was authorized to execute said Deed of Trust.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.

DATED: December 19<sup>th</sup>, 2000



  
Susan Hanley  
Notary Public in and for the State of  
Washington, residing at Kirkland  
My appointment expires 8-4-02





## Exhibit 1

### Legal description

#### Parcel "A":

The Southeast 1/4 of the Southeast 1/4 of Section 4, Township 34 North, Range 2 East, W.M.; EXCEPT that certain 60 foot strip conveyed to Skagit County for road purposes by Deed dated March 29, 1894, and recorded March 30, 1894, in Volume 28 of Deeds, page 515; AND ALSO EXCEPT the following described tracts:

1. Commencing at the Northwest corner of said subdivision; thence South, 150 feet along the West line thereof; thence East, 100 feet parallel to the North line of said subdivision; thence North, 150 feet to said North line of said Southeast 1/4 of the Southeast 1/4; thence West, 100 feet, more or less, along said North line to the point of beginning.

2. That portion of said Southeast 1/4 of the Southeast 1/4 lying Easterly of the following described line:

Beginning at the Southeast corner of said subdivision; thence South 89 degrees 02'43" West along the South line thereof, a distance of 672.32 feet to the TRUE POINT OF BEGINNING of said line; thence North 02 degrees 57'37" East, a distance of 702.16 feet; thence North 12 degrees 05'04" West, a distance of 594.48 feet to the North line of said subdivision and the terminus of said line.

#### Parcel "B":

Government Lots 1 and 2, of Section 9, Township 34 North, Range 2 East, W.M.; EXCEPT that portion of the above described Parcels lying Easterly of the following described line:

Beginning at the Northeast corner of said Section 9; thence South 89 degrees 02'43" West along the North line thereof, a distance of 672.32 feet to the TRUE POINT OF BEGINNING of said line; thence South 21 degrees 44'42" East, a distance of 619.22 feet; thence South 00 degrees 34'41" East, a distance of 644.17 feet; thence South 22 degrees 12'49" West, a distance of 283.19 feet; thence South 16 degrees 49'38" West, a distance of 530.00 feet; thence South 23 degrees 24'46" West, a distance of 1668.14 feet to the line of ordinary high water of Similk Bay, and the terminus of said line;

AND EXCEPT that portion of Government Lot 2 of said Section 9, lying Southerly and Westerly of the following described line:

Commencing at the Southwest corner of said Government Lot 2; thence North 00 degrees 47'21" East, along the West line of said Government Lot 2, a distance of 642.60 feet to the TRUE POINT OF BEGINNING; thence South 72 degrees 51'40" East, 585.98 feet; thence South 24 degrees 02'12" West, 1486.49 feet to the line of ordinary high water of Similk Bay and the terminus of the herein described line.

