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, Skagit County Auditor

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This Instrument Prepared By
and After Recording Return To:

Daniel W. Baker
Chapman and Cutler
111 West Monroe Street
Chicago, Illinois 60603

T-83166

LAND TITLE COMPANY OF SKAGIT COUNTY

FIRST SUPPLEMENT TO DEED OF TRUST, FIXTURE FILING AND SECURITY AGREEMENT
WITH ASSIGNMENT OF RENTS

Coversheet Recording Information:

GRANTOR:

SKAGIT GARDENS, INC.
a Delaware corporation

BENEFICIARY:

HARRIS TRUST AND SAVINGS BANK

TRUSTEE:

LAND TITLE COMPANY OF SKAGIT COUNTY

AF # 199909140054

abbreviated legal description:

Lots 2 & 3 of SP 94-033 in 32-34-4 E W.M.

a portion of NWQ of NWQ, 32-34-4 E W.M.

a portion of Gov. Lots 6 & 7, 12-34-3 E W.M.

a portion of NEQ of NEQ, 13-34-3 E W.M.

P106106; P106105; P29527; P29522; P29524; P21493; P21740; P21495

**FIRST SUPPLEMENT TO DEED OF TRUST, FIXTURE FILING AND SECURITY
AGREEMENT WITH ASSIGNMENT OF RENTS**

This First Supplement to Deed of Trust, Fixture Filing and Security Agreement with Assignment of Rents dated as of February 8, 2001 (the "*Supplement*") from SKAGIT GARDENS, INC., a Delaware corporation, with its mailing address at 1719 Old Highway 99 South, Mount Vernon, Washington 98273 ("*Grantor*") to LAND TITLE COMPANY OF SKAGIT COUNTY, as trustee ("*Trustee*"), with its mailing address at P.O. Box 45, 111 George Hopper Road, Burlington, Washington 98233, in trust for the benefit of HARRIS TRUST AND SAVINGS BANK, an Illinois banking corporation with its mailing address at 111 West Monroe Street, Chicago, Illinois 60603 ("*Harris*"), as agent hereunder for the Lenders hereinafter identified and defined (Harris acting as such agent and any successor or successors to Harris in such capacity being herein referred to as the "*Beneficiary*");

WITNESSETH THAT:

WHEREAS, Grantor did heretofore execute and deliver to Trustee for the benefit of Beneficiary that certain Deed of Trust, Fixture Filing and Security Agreement with Assignment of Rents dated as of September 14, 1999, and recorded in the Recorder's Office of Skagit County, Washington on September 14, 1999, as Document No. 199909140054 (the "*Deed of Trust*"), encumbering the property described on Schedule I attached hereto, in order to secure certain indebtedness of International Garden Products, Inc., a Delaware corporation (the "*Borrower*"), now or from time to time owing to Beneficiary and the Lenders; and

WHEREAS, the Deed of Trust currently secures, among other things, that certain Credit Agreement dated as of September 14, 1999, with Harris, individually and as agent for itself and the other lenders or financial institutions from time to time hereafter party to, or otherwise entitled to the benefits of the security described in, such Credit Agreement (such Credit Agreement, as the same may from time to time hereafter be modified or amended, including any amendment and restatement of the same in its entirety, being hereinafter referred to as the "*Credit Agreement*"; and Harris and the other lenders or financial institutions from time to time party to, or otherwise entitled to the benefits of the security described in, the Credit Agreement being hereinafter referred to collectively as the "*Lenders*" and individually as a "*Lender*"), a true and correct copy of which is on file at the offices of the Beneficiary; and

WHEREAS, the Deed of Trust currently secures, among other things, (i) a revolving credit (the "*Revolving Credit*") evidenced by Revolving Credit Notes (the "*Revolving Credit Notes*") aggregating \$40,000,000 in principal amount and payable to the order of the relevant Lenders named thereon, whereby the Borrower promised to pay the advances evidenced thereby no later than September 30, 2004 (the "*Termination Date*"), with interest as set forth in the Credit Agreement, which Revolving Credit is also available by way of letters of credit issued by the Mortgagee or one or more of the Lenders with expiry dates not later than the Termination Date (the "*Letters of Credit*") pursuant to one or more applications therefor (the "*L/C Applications*"); (ii) Term A Notes (the "*Term A Notes*") aggregating \$10,000,000 in principal amount and



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payable to the order of the relevant Lenders named thereon, whereby the Borrower promised to pay the term loans evidenced thereby in installments over the period ending on the Termination Date, the final maturity thereof, with interest as set forth in the Credit Agreement; (iii) Term B Notes (the "*Term B Notes*") aggregating \$15,000,000 in principal amount and payable to the order of the relevant Lenders named thereon, whereby the Borrower promised to pay the term loans evidenced thereby in installments over the period ending on the Termination Date, the final maturity thereof, with interest as set forth in the Credit Agreement; (iv) Acquisition Notes (the "*Acquisition Notes*") aggregating \$15,000,000 in principal amount and payable to the order of the relevant Lenders named thereon, whereby the Borrower promised to pay the loans evidenced thereby in installments over the period ending on the Termination Date, the final maturity thereof, with interest as set forth in the Credit Agreement (the Acquisition Notes, the Term A Notes, the Term B Notes and the Revolving Credit Notes, and any and all notes issued in substitution or replacement therefor or in extension or renewal thereof, being referred to herein as the "*Original Notes*" and individually as an "*Original Note*"); (v) one or more interest rate exchange, swap, cap, collar, floor or other similar agreements and one or more foreign currency contracts, currency swap contracts or other similar agreements of the Borrower or one or more of its domestic subsidiaries with one or more of the Lenders or their affiliates for the purpose of hedging or otherwise protecting against changes in interest rates (the foregoing agreements being referred to herein as "*Hedging Agreements*" and the liability in respect of such Hedging Agreements being hereinafter referred to as the "*Hedging Liability*"); and (vi) the guarantee by the Grantor of the payment in full of all of the indebtedness and obligations of the Borrower referred to in the Credit Agreement; and

WHEREAS, the Borrower, the Beneficiary, individually and as agent, and the Lenders have heretofore entered into a Second Amendment to the Credit Agreement dated as of February 2, 2001 (the "*Amendment*") which adds an \$8,000,000 bridge loan facility and amends various terms and conditions of the Credit Agreement; and

WHEREAS, concurrently with the Amendment the Borrower issued one or more Bridge Loan Notes (said Bridge Loan Notes and any and all notes issued in substitution or replacement therefor or in extension or renewal thereof, being referred to herein as the "*Bridge Loan Notes*"; and together with the Original Notes being collectively referred to herein as the "*Notes*" and individually as a "*Note*") aggregating \$8,000,000 in principal amount and payable to the order of the relevant Lenders named thereon, whereby the Borrower promises to pay the advances evidenced thereby no later than the Termination Date, with interest as set forth in the Credit Agreement; and

WHEREAS, as a condition precedent to making such amendments to the Credit Agreement and making certain other financial accommodations to the Borrower, the Lenders require the Grantor, and to accommodate that requirement the Grantor desires by this Supplement, to confirm and assure that all of the real estate and other properties, rights, interests and privileges of the Grantor which are currently subject to the lien of the Deed of Trust be and constitute collateral security for the indebtedness whether now existing or hereafter arising which is evidenced by the Bridge Loan Notes or otherwise arises out of the Credit Agreement (whether for loans, letters of credit, or otherwise); and



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WHEREAS, the Deed of Trust is to continue to secure all the indebtedness now secured thereby, this Supplement being executed and delivered to confirm and assure the foregoing;

NOW, THEREFORE, for and in consideration of the execution and delivery by the Lenders of the Amendment and other good and valuable consideration, receipt whereof is hereby acknowledged, the Deed of Trust shall be and hereby is supplemented and amended as follows, to wit:

(a) To secure (i) the payment of the principal and premium, if any, of and interest on the Notes as and when the same becomes due and payable (whether by lapse of time, acceleration or otherwise) and all advances now or hereafter evidenced thereby, (ii) the payment of all sums due or owing with respect to Hedging Liability and any and all Hedging Agreements entered into in connection therewith, (iii) the payment of all obligations arising under any L/C Applications, including the obligation of the Borrower to reimburse the Lenders for any draws under the Letters of Credit, (iv) the payment of all amounts guaranteed by Grantor pursuant to the Credit Agreement, (v) the payment of all fees and other amounts due and payable under the Credit Agreement and the other instruments and documents executed and delivered in connection therewith, (vi) the payment of all other indebtedness, obligations and liabilities which this Supplement secures pursuant to any of its terms and (vii) the observance and performance of all covenants and agreements contained herein or in the Notes or the L/C Applications or Credit Agreement or in any other instrument or document at any time evidencing or securing any of the foregoing or setting forth terms and conditions applicable thereto (all of such indebtedness, obligations and liabilities described in clauses (i), (ii), (iii), (iv), (v), (vi) and (vii) above being hereinafter collectively referred to as the "*indebtedness hereby secured*"), Grantor does by these presents grant, bargain, sell, convey, mortgage, warrant, assign, alien, enfeoff, release, confirm, transfer, set over and pledge unto Beneficiary, its successors and assigns, and grant to Beneficiary, its successors and assigns, a continuing security interest in, all and singular the properties, rights, interests and privileges described in Granting Clauses I, II, III, IV, V, VI and VII, both inclusive, of the Deed of Trust, each and all of such Granting Clauses being hereby incorporated by reference herein with the same force and effect as though set for the herein in their entirety. The foregoing grant of lien is in addition to and supplemental of and not in substitution for the grant of the lien created and provided for by the Deed of Trust, and nothing herein contained shall affect or impair the lien or priority of the Deed of Trust as to the indebtedness which would be secured thereby prior to giving effect to this Supplement.

(b) The Deed of Trust shall be amended by deleting the amount of "*Eighty Million Dollars (\$80,000,000)*" appearing in Section 37 thereof and inserting the amount "*Eighty Eight Million Dollars (\$88,000,000)*" in its stead.

(c) The Deed of Trust shall be amended by deleting the amount "*\$80,000,000*" appearing in the first sentence of page 1 and inserting the amount "*\$88,000,000*" in its stead.

(d) The Deed of Trust shall be amended by deleting the period at the end of Section 33 and inserting the following in its stead: "; it being understood that so long as the Trustee protective provisions hereof are not being changed, waived, discharged or terminated, the



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signature of the Trustee shall not be required on any such change, waiver, discharge or termination."

In order to induce Beneficiary to enter into the Amendment and to induce Beneficiary to accept this Supplement on behalf of the Lenders, the Grantor hereby further covenants and agrees with, and represents and warrants to, Beneficiary for the benefit of the Lenders as follows:

1. The Grantor hereby represents and warrants to Beneficiary that as of the date hereof each of the representations and warranties set forth in the Deed of Trust as supplemented hereby are true and correct and that no Event of Default as defined in the Deed of Trust as supplemented hereby, or any other event which with the lapse of time, the giving of notice or both would constitute such an Event of Default, has occurred and is continuing or shall result after giving effect to this Supplement. Grantor hereby repeats and reaffirms all covenants contained in the Deed of Trust, each and all of which shall be applicable to all of the indebtedness secured by the Deed of Trust as supplemented hereby. The Grantor repeats and reaffirms its covenant that all the indebtedness secured by the Deed of Trust as supplemented hereby will be promptly paid as and when the same becomes due and payable.

2. All of the provisions, stipulations, powers and covenants contained in the Deed of Trust as supplemented and amended hereby shall stand and remain unchanged and in full force and effect except to the extent specifically modified hereby and shall be applicable to all of the indebtedness, obligations and liabilities secured by the Deed of Trust as supplemented hereby.

3. All capitalized terms used herein without definition shall have the same meanings herein as they have in the Deed of Trust. The definitions provided herein of any capitalized terms shall apply to such capitalized terms as the same appear in the Deed of Trust as supplemented hereby, all to the end that any capitalized terms defined herein and used in the Deed of Trust as supplemented hereby shall have the same meanings in the Deed of Trust as supplemented hereby as are given to such capitalized terms herein. Without limiting the foregoing, all references in the Deed of Trust to the term "*indebtedness hereby secured*" shall be deemed references to all the indebtedness, obligations and liabilities secured by the Deed of Trust as supplemented hereby; all references in the Deed of Trust to the term "Notes" shall be deemed to include the Bridge Loan Notes, and any and all notes issued in substitution, addition or replacement therefor or in extension or renewal thereof; and all references in the Deed of Trust to the "*Credit Agreement*" shall be deemed references to the Credit Agreement as amended pursuant to the Amendment and as the same may from time to time be further modified and amended. All of the provisions, stipulations, powers and covenants contained in the Deed of Trust shall stand and remain unchanged and in full force and effect except to the extent specifically modified hereby and shall be applicable to all of the indebtedness, obligations and liabilities secured by the Deed of Trust as supplemented hereby.

4. The Grantor acknowledges and agrees that the Deed of Trust as supplemented hereby is and shall remain in full force and effect, and that the Mortgaged



Premises are and shall remain subject to the lien and security interest granted and provided for by the Deed of Trust as supplemented hereby for the benefit and security of all the indebtedness hereby secured, including without limitation the credit facilities made available by the Lenders to Grantor under the Credit Agreement evidenced by the New Notes. Without limiting the foregoing, the Grantor hereby agrees that, notwithstanding the execution and delivery hereof, (i) all rights and remedies of Beneficiary under the Deed of Trust, (ii) all obligations of the Grantor thereunder and (iii) the lien and security interest granted and provided for thereby are and as amended hereby shall remain in full force and effect for the benefit and security of all the indebtedness hereby secured, it being specifically understood and agreed that this Supplement shall constitute and be, among other things, an acknowledgment and continuation of the rights, remedies, lien and security interest in favor of Beneficiary, and the obligations of the Grantor to Beneficiary, which exist under the Deed of Trust as supplemented hereby.

5. This Supplement may be executed in any number of counterparts and by different parties hereto on separate counterparts, each of which when so executed shall be an original but all of which to constitute one and the same instrument.

6. No reference to this Supplement need be made in any note, instrument or other document making reference to the Deed of Trust, any reference to the Deed of Trust in any of such to be deemed to be a reference to the Deed of Trust as supplemented hereby. This instrument shall be construed and governed by and in accordance with the laws of the State of Illinois.

7. Wherever herein any of the parties hereto is referred to, such reference shall be deemed to include the successors and assigns of such party; and all the covenants, promises and agreements by or on behalf of the Grantor, or by or on behalf of Beneficiary, or by or on behalf of the holder or holders of the indebtedness hereby secured contained in the Deed of Trust as supplemented hereby shall bind and inure to the benefit of the respective successors and assigns of such parties, whether so expressed or not.

[SIGNATURE PAGE TO FOLLOW]



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IN WITNESS WHEREOF, the Grantor has caused these presents to be duly executed the day and year first above written.

GRANTOR HEREBY REPRESENTS AND ACKNOWLEDGES THAT THE GRANTOR HAS RECEIVED, WITHOUT CHARGE, A TRUE COPY OF THIS SUPPLEMENT.

ISELI NURSERY, INC.

By Don Martindale
Name
Title VICE PRESIDENT

Accepted and agreed to as of the date first above written.

HARRIS TRUST AND SAVINGS BANK, as
Beneficiary

By Robert H. Welohan
Name
Title Vice President



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STATE OF Massachusetts)
COUNTY OF Suffolk)

SS

I, Debra J. Karas, a Notary Public in and for said County in the State
aforesaid, do hereby certify that Steven Markindale,
of Iseli Nursery, Inc., who is personally known to me to be the
same person whose name is subscribed to the foregoing instrument as such
Vice President, appeared before me this day in person and acknowledged
that he signed and delivered the same instrument as his own free and voluntary act and as the
free and voluntary act and deed of said corporation for the uses and purposes therein set forth.

Given under my hand and notarial seal this 7th day of February, 2001.

Debra J. Karas
Notary Public

DEBRA J. KARAS
(Type or Print Name)

(SEAL)

Commission expires:

MARCH 15, 2007



STATE OF ILLINOIS)

) SS

COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County in the State aforesaid, do hereby certify that Robert H. Wolohan, Vice President of Harris Trust and Savings Bank, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Vice President, appeared before me this day in person and acknowledged that he signed and delivered the same instrument as his own free and voluntary act and as the free and voluntary act and deed of said bank for the uses and purposes therein set forth.

Given under my hand and notarial seal this 8th day of February, 2001.

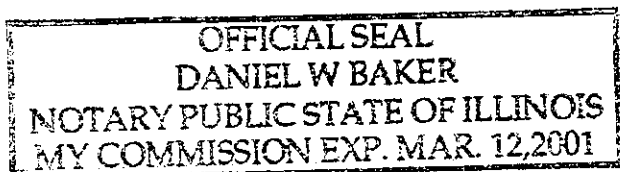


Notary Public

Daniel W. Baker

(Type or Print Name)

(SEAL)



Commission expires:



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SCHEDULE I

PARCEL "A":

Lots 2 and 3 of Skagit County Short Plat No. 94-033, approved September 26, 1994, and recorded September 30, 1994, in Volume 11 of Short Plats, pages 121 and 122, under Auditor's File No. 9409300084, records of Skagit County, Washington; being a portion of the North $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 32, Township 34 North, Range 4 East, W.M.

Situate in the County of Skagit, State of Washington.

PARCEL "B":

That portion of the North $\frac{1}{2}$ of the South $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 32, Township 34 North, Range 4 East, W.M., described as follows:

Beginning at a point on the South line of said North $\frac{1}{2}$ of the South $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$, 30 feet East of the Southwest corner thereof, said point being the East line of the State Highway "99" right of way, as said highway existed on January 7, 1954;
thence East along the South line of said North $\frac{1}{2}$ of the South $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$, 188 feet;
thence North parallel with the West line of said subdivision, 200 feet;
thence West 188 feet to the East line of said State Highway right of way;
thence South along the East line of said highway right of way, 200 feet to the point of beginning.

Situate in the County of Skagit, State of Washington.

PARCEL "C":

That portion of the North $\frac{1}{2}$ of the South $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 32, Township 34 North, Range 4 East, W.M., described as follows:

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PARCEL "C" continued:

Beginning at a point on the South line of said North $\frac{1}{2}$ of the South $\frac{1}{2}$ of said Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$, 30 feet East of the Southwest corner thereof, said point being on the East line of the State Highway "99" right of way, as said highway existed on January 7, 1954;
thence North along the East line of said State Highway right of way, 200 feet;
thence East 144 feet to the true point of beginning;
thence continue East 44 feet;
thence North parallel to the West line of said Northwest $\frac{1}{4}$, 8.0 feet;
thence West 44 feet;
thence South 8.0 feet to the true point of beginning,

EXCEPT the North 6.13 feet thereof.

Situate in the County of Skagit, State of Washington.

PARCEL "D":

The South 1.87 feet of the West 144.00 feet of that portion of the North $\frac{1}{2}$ of the South $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 32, Township 34 North, Range 4 East, W.M., described as follows:

Beginning at a point on the East line of the State Highway 200 feet North of the South line of said North $\frac{1}{2}$ of the South $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of said Section 32;
thence East 144 feet;
thence North parallel to the West line of said Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$, 8 feet;
thence East 44 feet, more or less, to a line which is distant 218 feet East of and parallel to the West line of said Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$;
thence North along said parallel line 122 feet, more or less, to the North line of said North $\frac{1}{2}$ of the South $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$;
thence West along said North line 188 feet, more or less, to the East line of said State Highway;
thence South along said East line 130 feet to the point of beginning.

Situate in the County of Skagit, State of Washington.

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PARCEL "E":

The South 330 feet of the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 32, Township 34 North, Range 4 East, W.M., EXCEPT Drainage District No. 17 right of way, EXCEPT Old State Highway 99 along the West line thereof, EXCEPT that portion conveyed to the State of Washington for Primary State Highway No. 1 along the East line thereof, by deed dated February 3, 1953, recorded March 12, 1953, under Auditor's File No. 485839, AND EXCEPT that portion, if any, lying within the North $\frac{1}{4}$ of the South $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$, ALSO EXCEPT that portion thereof condemned by the State of Washington for highway purposes in Skagit County Superior Court Cause No. 33040.

Situate in the County of Skagit, State of Washington.

PARCEL "F":

The North $\frac{1}{4}$ of the South $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 32, Township 34 North, Range 4 East, W.M., EXCEPT the West 218 feet thereof, AND EXCEPT that portion thereof conveyed to the State of Washington for highway purposes by deed dated January 29, 1953 and recorded February 12, 1953, under Auditor's File No. 485836, and deed recorded December 21, 1971, under Auditor's File No. 762101, records of said County, AND EXCEPT Drainage Ditch right of way, if any.

Situate in the County of Skagit, State of Washington.

PARCEL "G":

Government Lot 7 of Section 12, Township 34 North, Range 3 East, W.M., and a tract of land in the Northeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 13, Township 34 North, Range 3 East, W.M., described as follows:

Beginning at the Northeast corner of said Section 13; thence South $83^{\circ}31'$ West along the North line of said Section 13, a distance of 1,273.6 feet, more or less, to the Northwest corner of the Northeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of said Section 13; thence South along the West line of said Northeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$, a distance of 160.6 feet;

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PARCEL "G" Continued:

thence South 89°33' East, a distance of 1,275 feet, more or less, to the East line of said Section 13;
thence North along the East line of said Section, a distance of 314.8 feet, more or less, to the point of beginning, EXCEPT the East 40 feet of that portion of the subject property lying within Government Lot 7 in Section 12, Township 34 North, Range 3 East, W.M., and as conveyed to Skagit County for road purposes by deed recorded April 5, 1911 in Volume 83 of Deeds, page 536, ALSO EXCEPT the East 40 feet of that portion of the subject property lying within Section 13, Township 34 North, Range 3 East, W.M., as conveyed to John Krangness by deed recorded April 4, 1924, in Volume 132 of Deeds, page 576, ALSO EXCEPT therefrom all rights of ways for Diking District No. 17 and for County roads, AND ALSO EXCEPT the North 2 acres of the West 10 acres of the remainder.

Situate in the County of Skagit, State of Washington.

PARCEL "H":

That portion of Government Lot 6, Section 12, Township 34 North, Range 3 East, W.M., described as follows:

Beginning at the Southwest corner of said Lot;
thence North 83°40'02" East 1,193.75 feet along the South line of said Section 12, to a point that is South 83°40'02" West 1,285.18 feet from the Southeast corner of said Section 12 said point being the true point of beginning;
thence North 0°19'30" West 204.05 feet;
thence South 88°38'19" East 48.51 feet to the East line of said Lot;
thence South 0°33'18" West 197.86 feet along said East line to the Southeast corner thereof;
thence South 83°40'02" West 45.71 feet along said South line to the true point of beginning.

Being a portion of Lot 2, Short Plat No. 79-80, recorded in Book 5 of Short Plats, page 125, under Skagit County Auditor's File No. 8109110008.

Situate in the County of Skagit, State of Washington.



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