

200108080064  
 Skagit County Auditor  
 8/8/2001 Page 1 of 22 1:28:10PM

**AFTER RECORDING RETURN TO:**

Anchor Savings Bank  
 120 N. Broadway  
 P.O. Box 387  
 Aberdeen, Washington 98520

FIRST AMERICAN TITLE CO.

65940 E

Attention: Commercial Lending

**DEED OF TRUST AND SECURITY AGREEMENT**

**Grantor (Borrower):** DANE A. ARMSTRONG and JACQUELINE J. ARMSTRONG, husband and wife, as to an undivided 50% interest, and JOHN W. RICKETT and NANCY J. RICKETT, husband and wife, as to an undivided 50%  
**Grantee (Lender):** Anchor Savings Bank, a state savings bank  
**Grantee (Trustee):** First American Title Company of Skagit County  
**Legal Description:** Section 17, Township 34, Range 4; Ptn. SW-SW

Additional Legal(s) on Exhibit A

**Assessor's Tax Parcel:** 340417-3-012-02-3R25540 and 340417-3-013-0102R25541  
**ID Number:** 16027334-2

THIS DEED OF TRUST AND SECURITY AGREEMENT ("Deed of Trust"), is made this 3rd day of August, 2001 between DANE A. ARMSTRONG and JACQUELINE J. ARMSTRONG, husband and wife, as to an undivided 50% interest, and JOHN W. RICKETT and NANCY J. RICKETT, husband and wife, as to an undivided 50%, the address of which is P. O. Box 13719, Spokane, WA 99213 ("Grantor"); First American Title Company of Skagit County, the address of which is P. O. Box 1667, Mount Vernon, WA 98273 and its successors in trust and assigns ("Trustee"), and ANCHOR SAVINGS BANK, a state savings bank, the address of which is Broadway at First, Aberdeen, Washington 98520 ("Beneficiary").

1. **GRANTING CLAUSE.** Grantor, in consideration of the acceptance by Trustee of the trust hereunder, and of other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in order to secure the payment of the indebtedness evidenced by the Note (as hereinafter defined) with interest thereon, and any other sums payable thereunder and hereunder, and to secure the performance of the obligations contained herein, grants, bargains, sells, and conveys to Trustee and its successors in trust and assigns, forever, in trust, with power of sale, all of Grantor's estate, right, title, interest, claim and demand in and to the property in the county of Skagit, state of Washington, described as follows, whether now existing or hereafter acquired (all of the property described in all parts of this Section 1 and all additional property, if any, described in Section 2 is herein called the "Property"):

1.1 **Land and Appurtenances.** The land described on Exhibit A hereto, and all tenements, hereditaments, rights-of-way, easements, appendages and appurtenances thereto belonging or in any way appertaining, including without limitation all of the right, title and interest of Grantor in and to any avenues, streets, ways, alleys, vaults, strips or gores of land adjoining that property, and all claims or demands of Grantor either in law or in equity in possession or expectancy of, in and to that property; and

1.2 **Improvements and Fixtures.** All buildings, structures and other improvements now or hereafter erected on the property described in Section 1.1 above, and all facilities, fixtures, machinery, apparatus, installations, goods, furniture and equipment, and other properties of whatsoever

nature (including without limitation all heating, ventilating, air conditioning, plumbing and electrical equipment, all elevators and escalators, all sprinkler systems, all engines and motors, all lighting, laundry, cleaning, fire prevention and fire extinguishing equipment, all ducts and compressors, all refrigerators, stoves and other appliances, attached cabinets, partitions, rugs, carpets, blinds and draperies, all building materials and supplies, and all construction materials and equipment), now or hereafter located in or used or procured for use in connection with that property, it being the intention of the parties that all property of the character hereinabove described which is now owned or hereafter acquired by Grantor and which is affixed or attached to or used in connection with the property described in Section 1.1 above shall be, remain or become a portion of that property and shall be covered by and subject to the lien of this Deed of Trust, together with all contracts, agreements, permits, plans, specifications, drawings, surveys, engineering reports and other work products relating to the construction of the existing or any future improvements on the Property, any and all rights of Grantor in, to or under any architect's contracts or construction contracts relating to the construction of the existing or any future improvements on the Property, and any performance and/or payment bonds issued in connection therewith together with any and all rights of Grantor without limitation to make claim for, collect, receive and receipt for any and all rents, income, revenues, issues, royalties, profits, including mineral, oil and gas rights and profits, insurance proceeds, condemnation awards and other moneys payable or receivable from or on account of any of the Property, including interest thereon, or to enforce all other provisions of any agreement (including those referred to above) affecting or relating to any of the Property, and together with any and all rights of Grantor in any and all accounts, rights to payment, contract rights, chattel paper, documents, instruments, licenses, contracts, agreements and general intangibles relating to any of the Property, including, without limitation, income and profits derived from the operation of any business on the Property or attributable to services that occur or are provided on the Property or generated from the use and operation of the Property (including, without limitation, income from concessions, vending machines, coin-operated laundry equipment, storage and parking income, and, in the case of a hotel property or other lodging facility, transient room rental of such facilities); and

1.3 **Enforcement and Collection.** Any and all rights of Grantor without limitation to make claim for, collect, receive and receipt for any and all rents, income, revenues, issues, royalties, and profits, including mineral, oil and gas rights and profits, insurance proceeds, condemnation awards and other moneys, payable or receivable from or on account of any of the Property, including interest thereon, or to enforce all other provisions of any other agreement (including those described in Section 1.2 above) affecting or relating to any of the Property, to bring any suit in equity, action at law or other proceeding for the collection of such moneys or for the specific or other enforcement of any such agreement, award or judgment, in the name of Grantor or otherwise, and to do any and all things which Grantor is or may be or become entitled to do with respect thereto, provided, however, that no obligation of Grantor under the provisions of any such agreements, awards or judgments shall be impaired or diminished by virtue hereof, nor shall any such obligation be imposed upon Trustee or Beneficiary; and

1.4 **Accounts and Income.** Any and all rights of Grantor in any and all accounts, rights to payment, contract rights, chattel paper, documents, instruments, licenses, contracts, agreements and general intangibles relating to any of the Property, including, without limitation, income and profits derived from the operation of any business on the Property or attributable to services that occur or are provided on the Property or generated from the use and operation of the Property; and

1.5 **Leases.** All of Grantor's rights as landlord in and to all existing and future leases and tenancies, whether written or oral and whether for a definite term or month to month, now or hereafter demising all or any portion of the property described in 1.1 and 1.2 above, including all renewals and extensions thereof and all rents and deposits received or receivable thereunder. In accepting this Deed of Trust neither Beneficiary nor Trustee assumes any liability for the performance of any such lease.

2. **SECURITY AGREEMENT.** To the extent any of the property described in Section 1 is personal property, Grantor, as debtor, grants to Beneficiary, as secured party, a security interest therein together with a security interest in all other personal property of whatsoever nature which is located on or used or to be used in connection with any of the property described in Section 1, and any products or proceeds of any thereof, pursuant to the Uniform Commercial Code of the state of Washington (the "UCC"), on the terms and conditions contained herein except that where any provision hereof is in conflict with the UCC, the UCC shall control. Beneficiary hereby assigns such security interest to Trustee, in trust, for the benefit of Beneficiary to be dealt with as a portion of the "Property" except as otherwise specified herein.

3. **OBLIGATIONS SECURED.** This Deed of Trust is given for the purpose of securing:

3.1 **Performance and Payment.** The performance of the obligations contained herein and in the separate Assignment of Leases and Rents ("Assignment of Rents") which has been executed and delivered by Grantor concurrently herewith, and the payment of Nine Hundred Thousand and No/100 DOLLARS (\$900,000.00), with interest thereon, according to the terms of a promissory note of even date herewith made by Grantor, payable to Beneficiary or order, and any and all extensions, renewals, modifications or replacements thereof, whether the same be in greater or lesser amounts (the "Note"); and

3.2 **Future Advances.** The repayment of any and all sums advanced or expenditures made by Beneficiary subsequent to the execution of this Deed of Trust for the maintenance or preservation of the Property or advanced or expended by Beneficiary pursuant to any provision of this Deed of Trust subsequent to its execution, together with interest thereon.

3.3 **Exclusion From Secured Obligations.** Notwithstanding anything to the contrary set forth herein or in any other Loan Document (as hereinafter defined), this Deed of Trust shall not secure the obligations of Grantor under that certain Certificate and Indemnity Agreement Regarding Hazardous Materials dated as of even date herewith made by Grantor in favor of Beneficiary (the "Indemnity Agreement") or the substantial equivalent of the obligations arising under the Indemnity Agreement. All of such obligations (and substantial equivalents thereof) shall constitute the separate, unsecured recourse obligations of Grantor and shall not be deemed to be evidenced by the Note or secured by this Deed of Trust.

4. **WARRANTIES AND COVENANTS OF GRANTOR.** Grantor warrants, covenants, and agrees:

4.1 **Warranties.**

(a) Grantor has full power and authority to grant the Property to Trustee and warrants the Property to be free and clear of all liens, charges, and other monetary encumbrances except those appearing of record on the date hereof.

(b) None of the Property is used principally or at all for agricultural or farming purposes.

(c) The Property is free from damage and no matter has come to Grantor's attention (including, but not limited to, knowledge of any construction defects or nonconforming work) that would materially impair the value of the Property as security.

(d) The loan evidenced by the Note and secured by this Deed of Trust is primarily for commercial, industrial or business purposes and is not primarily for personal, family or household purposes.

4.2 **Preservation of Lien.** Grantor will preserve and protect the priority of this Deed of Trust as a first lien on the Property.

4.3 **Repair and Maintenance of Property.** Grantor will keep the Property in good condition and repair, which duty shall include but is not limited to continual cleaning, painting, landscaping, repairing and refurbishing of the Property; will complete and not remove or demolish, alter, or make additions to any building or other improvement which is part of the Property without the express written consent of Beneficiary; will underpin and support when necessary any such building or other improvement and protect and preserve the same; will complete or restore promptly and in good and workmanlike manner any such building or other improvement which may be damaged or destroyed and pay when due all claims for labor performed and materials furnished therefor; will not commit, suffer or permit any act upon the Property in violation of law; and will do all other acts which from the character or use of the Property may be reasonably necessary for the continued operation of the Property in a safe and legal manner, the specific enumerations herein not excluding the general.

4.4 **Insurance.**

(a) **Hazard.** Grantor will provide, maintain and deliver to Beneficiary, as further security for the faithful performance of this Deed of Trust, insurance covering the perils of fire/extended coverage/vandalism, malicious mischief, casualty and such other hazards as may be specified by Beneficiary in an amount equal to the greater of \$900,000.00 or one hundred percent (100%) of the replacement cost of the Property and naming Beneficiary as first loss payee pursuant to a standard first-



mortgage endorsement on Form 438BFU or on a loss-payee form substantially equivalent to the New York standard mortgage endorsement, with such deductibles as approved by Beneficiary but that are in no event greater than \$1,000.00. Unless Grantor provides Beneficiary with a certificate establishing that the Property is not located in a HUD-designated 100-year Flood Hazard Area, Grantor will also be required to obtain coverage against flood and water damage in the aforementioned insurance policy or under a government-sponsored insurance program for the maximum amount available. Beneficiary in its discretion may agree to a lesser amount, provided in no event shall flood and/or mudslide insurance be less than One Hundred percent (100%) of the original principal amount of the Note. Grantor shall be responsible for any uninsured losses and any deductibles. All existing and future policies for such insurance, and the proceeds thereof, are hereby assigned to Beneficiary, but no such assignment shall be effective to invalidate or impair any insurance policy. Should the Property or any part thereof be damaged by reason of any cause covered by insurance, Beneficiary may, at its option, commence, appear in and prosecute, in its own name, any action or proceeding, or make any reasonable compromise or settlement in connection with such damage, and obtain all proceeds, or other relief therefor, and Grantor agrees to pay Beneficiary's costs and reasonable attorneys' fees in connection therewith. No insurance proceeds at any time assigned to or held by Beneficiary shall be deemed to be held in trust, and Beneficiary may commingle such proceeds with its general assets and shall not be liable for the payment of any interest thereof. The amount collected under any insurance policies required to be maintained by Grantor pursuant to this Section 4.4.1 may be applied by Beneficiary upon any indebtedness secured hereby and in such order as Beneficiary may determine, or at the option of Beneficiary, the entire amount so collected or any part thereof may be released to Grantor. Beneficiary shall in no case be obligated to see to the proper application of any amount paid over to Grantor. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

(b) **Liability.** Grantor will maintain commercial general liability insurance covering the legal liability of Grantor against claims for bodily injury, death, or property damage occurring on, in, or about the Property with coverage of One Million Dollars (\$1,000,000.00) combined single limit, and naming Beneficiary an additional insured.

(c) **Rental Interruption.** Grantor will maintain rental loss or business interruption insurance in an amount equal to at least twelve (12) months' gross rental income from the Property, and naming Beneficiary as first loss payee, provided that Grantor may collect and retain any payments under said policies so long as it is not in default hereunder.

(d) **Insurance Survey.** During the last thirty (30) days of each year computed from the date hereof, Grantor will have an insurance survey of the Property made. Grantor shall at these times obtain such additional coverages or make such increases in the amounts of existing coverage as may be requested by Beneficiary on the basis of such survey.

(e) **General Provisions.** All policies of insurance required to be maintained by Grantor pursuant to this Section 4.4 shall be in form and substance and with companies acceptable to Beneficiary and which have a current rating of A-XII or better from the current Best Key Rating Guide, and contain waiver of any co-insurance clauses. Beneficiary reserves the right, in its reasonable discretion, to increase the amount of the required coverage, require insurance against additional risks, or withdraw approval of any insurance company at any time. Grantor shall deliver to Beneficiary an original of all policies of insurance and shall obtain renewals of any policies which expire and deliver evidence of such renewals to Beneficiary no later than ten (10) days prior to the expiration date of the policy being replaced. All policies and renewals thereof shall contain provision for thirty (30) days' notice to Beneficiary prior to any cancellation thereof. Notwithstanding any of the foregoing, neither Trustee nor Beneficiary shall be responsible for any such insurance or for the collection of any insurance moneys, or for any insolvency of any insurer or insurance underwriter. Any and all unexpired insurance shall inure to the benefit of and pass to the purchaser of the Property at any trustee's or sheriff's sale held hereunder.

4.5 **Right of Inspection.** Grantor shall permit Beneficiary or its agents, at all reasonable times, to enter upon and inspect the Property.

4.6 **Preservation of Licenses, Etc.** Grantor shall observe and comply with all requirements necessary to the continued existence and validity of all rights, licenses, permits, privileges, franchises and concessions relating to any existing or presently contemplated use of the Property, including but not limited to any zoning variances, special exceptions and nonconforming use permits.

4.7 **Further Assurances.** Grantor will, at its expense, from time to time execute and deliver any and all such instruments of further assurance and other instruments and do any and all such



acts, or cause the same to be done, as Trustee or Beneficiary deems necessary or advisable to grant to Trustee the Property or to carry out more effectively the purposes of this Deed of Trust.

4.8 **Legal Actions.** Grantor will appear in and defend any action or proceeding before any court or administrative body purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; and will pay all costs and expenses, including cost of evidence of title and any attorneys' fees incurred by Beneficiary and Trustee, in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear, and in any suit brought by Beneficiary or Trustee to foreclose this Deed of Trust.

4.9 **Taxes, Assessments and Other Liens.** Grantor will pay not later than when due all taxes, assessments, encumbrances, charges, and liens with interest, on the Property or any part thereof, which at any time appear to be or are alleged to be prior and superior hereto, including but not limited to any tax on or measured by rents of the Property, the Note, this Deed of Trust, or any obligation or part thereof secured hereby.

4.10 **Trust Expenses.** Grantor will pay all costs, fees and expenses of this trust including all such costs, fees and expenses incident to any default hereunder, including reasonable attorneys' fees.

4.11 **Repayment of Expenditures.** Grantor will pay immediately and without demand all sums expended hereunder by Beneficiary or Trustee with interest from date of expenditure at the Default Rate of interest specified in the Note and the repayment thereof shall be secured hereby.

4.12 **Financial & Operating Information.** Grantor will, at Beneficiary's request, furnish to it in such form as it may request, itemized annual statements of income and expenses in connection with the operation of the Property, including but not limited to utilization and property inspection reports, and such other financial and operating statements of Grantor as Beneficiary may from time to time require.

4.13 **Sale, Transfer, or Encumbrance of Property.** Grantor will not sell, transfer, or otherwise convey the Property or any interest therein, further encumber the Property or any interest therein, cause or permit any change in the entity, ownership or control of Grantor, or agree to do any of the foregoing without first repaying in full the Note and all other sums secured hereby.

4.14 **Information for Participants.** Grantor agrees to furnish such information and confirmation as may be required from time to time by Beneficiary on request of potential loan participants and agrees to make adjustments in this Deed of Trust, the Note, and the other documents evidencing or securing the loan secured hereby to accommodate such participant's requirements, provided that such requirements do not substantially vary the economic terms of the loan secured hereby.

4.15 **Tax and Insurance Reserves.** In addition to the payments required by the Note, Grantor agrees to pay Beneficiary, at Beneficiary's request, such sums as Beneficiary may from time to time estimate will be required to pay, at least 30 days before due, the next due taxes, assessments, insurance premiums, and similar charges affecting the Property, less all sums already paid therefor divided by the number of months to elapse before one month prior to the date when such taxes, assessments and premiums will become delinquent, such sums to be held by Beneficiary without interest or other income to the Grantor to pay such taxes, assessments and premiums. Should this estimate as to taxes, assessments and premiums prove insufficient, the Grantor upon demand agrees to pay Beneficiary such additional sums as may be required to pay them before delinquent.

If the total of the above-described payments in any one year shall exceed the amounts actually paid by Beneficiary for taxes, assessments and premiums, such excess may be credited by Beneficiary on subsequent payments under this section. If there shall be a default hereunder for which Beneficiary elects to realize upon this Deed of Trust, then at the time of the Trustee's sale or final decree of foreclosure, Beneficiary shall apply any balance of funds it may hold pursuant to this Section 4. first to interest on and then to the principal of the Note. If Beneficiary acquires the Property in lieu of realizing on this Deed of Trust, the balance of funds it holds shall become the property of Beneficiary.

Notwithstanding the foregoing, Beneficiary will not require Grantor to pay Beneficiary with each payment required by the Note, for any reserves for payment of real estate taxes as long as Grantor pays in full and in a timely manner all such real estate taxes and provides evidence



satisfactory to Beneficiary that such payments were made prior to such real estate taxes becoming delinquent.

Any transfer in fee of all or a part of the Property shall automatically transfer to the grantee all or a proportionate part of Grantor's rights and interest in the fund accumulated hereunder.

## **5. DEFAULT.**

**5.1 Definition.** Any of the following shall constitute an "Event of Default" as that term is hereinafter used:

(a) Any representation or warranty made by or for the benefit of Grantor herein or elsewhere in connection with the loan secured hereby, including but not limited to any representations in connection with the security therefor, shall prove to have been incorrect or misleading in any material respect;

(b) Grantor or any other person or entity liable therefor shall fail to pay when due any indebtedness secured hereby;

(c) Grantor or any other signatory thereto shall default in the performance of any covenant or agreement contained in this Deed of Trust, the Note, the Assignment of Rents, or any other agreement securing the indebtedness secured hereby;

(d) Grantor or any other person or entity liable for the repayment of the indebtedness secured hereby shall become unable or admit in writing its inability to pay its debts as they mature, or file, or have filed against it, a voluntary or involuntary petition in bankruptcy, or make a general assignment for the benefit of creditors, or be adjudicated bankrupt or insolvent;

(e) A tax, charge or lien shall be placed upon or measured by the Note, this Deed of Trust, or any obligation secured hereby which Grantor does not or may not legally pay in addition to the payment of all principal and interest as provided in the Note; or

(f) There shall occur any default under the Indemnity Agreement.

**5.2 Beneficiary's and Trustee's Right to Perform.** Upon the occurrence of any Event of Default, Beneficiary or Trustee, but without the obligation so to do and without notice to or demand upon Grantor and without releasing Grantor from any obligations hereunder, may: make any payments or do any acts required of Grantor hereunder in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon the Property for such purposes; commence, appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; pay, purchase, contest or compromise any encumbrance, charge or lien in accordance with the following paragraph; and in exercising any such powers, pay necessary expenses, employ counsel and pay a reasonable fee therefor. All sums so expended shall be payable on demand by Grantor, be secured hereby and bear interest at the Default Rate of interest specified in the Note from the date advanced or expended until repaid.

Beneficiary or Trustee in making any payment herein and hereby authorized, in the place and stead of the Grantor, in the case of a payment of taxes, assessments, water rates, sewer rentals and other governmental or municipal charges, fines, impositions or liens asserted against the Property, may make such payment in reliance on any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy of the bill, statement or estimate or into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof; in the case of any apparent or threatened adverse claim of title, lien, statement of lien, encumbrance, deed of trust, claim or charge Beneficiary or Trustee, as the case may be, shall be the sole judge of the legality or validity of same; and in the case of a payment for any other purpose herein and hereby authorized, but not enumerated in this paragraph, such payment may be made whenever, in the sole judgment and discretion of Trustee or Beneficiary, as the case may be, such advance or advances shall seem necessary or desirable to protect the full security intended to be created by this instrument, provided further, that in connection with any such advance, Beneficiary at its option may and is hereby authorized to obtain a continuation report of title prepared by a title insurance company, the cost and expenses of which shall be repayable by the Grantor without demand and shall be secured hereby.

**5.3 Remedies on Default.** Upon the occurrence of any Event of Default all sums

secured hereby shall become immediately due and payable, without notice or demand, at the option of Beneficiary and Beneficiary may:

- (a) Have a receiver appointed as a matter of right, without regard to the sufficiency of the Property or any other security for the indebtedness secured hereby;
- (b) Foreclose this Deed of Trust as a mortgage or otherwise realize upon the Property;
- (c) Cause Trustee to exercise the power of sale granted to Trustee under this Deed of Trust;
- (d) Sue on the Note according to law; or
- (e) To the extent permitted by law, including, without limitation, RCW 61.24.100, seek and obtain a deficiency judgment following the completion of a judicial foreclosure or a trustee's sale of all or a portion of the security for the obligations secured by this Deed of Trust.

5.4 **No Waiver.** By accepting payment of any sum secured hereby after its due date, Beneficiary does not waive its right either to require prompt payment when due of all other sums so secured or to declare an Event of Default for failure to do so.

6. **CONDEMNATION.** Any award of damages, whether paid as a result of judgment or prior settlement, in connection with any condemnation or other taking of any portion of the Property, for public or private use, or for injury to any portion of the Property is hereby assigned and shall be paid to Beneficiary which may apply such moneys received by it in the same manner and with the same effect as provided in Section 4.4.1 above for disposition of proceeds of hazard insurance. Should the Property or any part or appurtenance thereof or right or interest therein be taken or threatened to be taken by reason of any public or private improvement, condemnation proceeding (including change of grade), or in any other manner, Beneficiary may, at its option, commence, appear in and prosecute, in its own name, any action or proceeding, or make any reasonable compromise or settlement in connection with such taking or damage, and obtain all compensation, awards or other relief therefor, and Grantor agrees to pay Beneficiary's costs and reasonable attorneys' fees incurred in connection therewith. No condemnation award at any time assigned to or held by Beneficiary shall be deemed to be held in trust, and Beneficiary may commingle such award with its general assets and shall not be liable for the payment of any interest thereon.

7. **TRUSTEE.**

7.1 **General Powers and Duties of Trustee.** At any time or from time to time, without liability therefor and without notice and without affecting the liability of any person for the payment of the indebtedness secured hereby, upon written request of Beneficiary, payment of its own fees and presentation of this Deed of Trust and the Note for endorsement (in case of full reconveyance, for cancellation or retention), Trustee may:

- (a) Consent to the making of any map or plat of the Property;
- (b) Join in granting any easement or creating any restriction thereon;
- (c) Join in any subordination or other agreement affecting this Deed of Trust or the lien or charge thereof; or
- (d) Reconvey, without warranty, all or any part of the Property.

7.2 **Reconveyance.** Upon written request of Beneficiary stating that all sums secured hereby have been paid, and upon surrender of this Deed of Trust and the Note to Trustee for cancellation and retention and upon payment of its fees, Trustee shall reconvey, without warranty, the Property then held hereunder. The recitals in any reconveyance executed under this Deed of Trust of any matters of fact shall be conclusive proof of the truthfulness thereof. The grantee in such reconveyance may be described as "the person or persons legally entitled thereto".



7.3 **Powers and Duties on Default.** Upon written request therefor by Beneficiary specifying the nature of the default, or the nature of the several defaults, and the amount or amounts due and owing, Trustee shall execute a written notice of breach and of its election to cause the Property to be sold to satisfy the obligation secured hereby, and shall cause such notice to be recorded and otherwise given according to law.

Notice of sale having been given as then required by law and not less than the time then required by law having elapsed after recordation of such notice of breach, Trustee, without demand on Grantor, shall sell the Property at the time and place of sale specified in the notice, as provided by statute, either as a whole or in separate parcels and in such order as it may determine, at public auction to the highest and best bidder for cash in lawful money of the United States, payable at time of sale. Grantor agrees that such a sale (or a sheriff's sale pursuant to judicial foreclosure) of all the Property as real estate constitutes a commercially reasonable disposition thereof, but that with respect to all or any part of the Property which may be personal property Trustee shall have and exercise, at Beneficiary's sole election, all the rights and remedies of a secured party under the UCC. Whenever notice is permitted or required hereunder or under the UCC, ten (10) days shall be deemed reasonable. Trustee may postpone sale of all or any portion of the Property, and from time to time thereafter may postpone such sale, as provided by statute. Trustee shall deliver to the purchaser its deed and bill of sale conveying the Property so sold, but without any covenant or warranty, express or implied. The recital in such deed and bill of sale of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person other than Trustee, including Grantor or Beneficiary, may purchase at such sale.

After deducting all costs, fees and expenses of Trustee and of this trust, including the cost of evidence of title search and reasonable counsel fees in connection with sale, Trustee shall apply the proceeds of sale to payment of: all sums expended under the terms hereof not then repaid, with accrued interest at the Default Rate of interest specified in the Note; all other sums then secured hereby; and the remainder, if any, to the clerk of the superior court of the county in which the sale took place, as provided in RCW 61.24.080.

7.4 **Reassignment of Security Interest.** At the request of Beneficiary, Trustee shall reassign to Beneficiary the security interest created hereby and after such reassignment Beneficiary shall have the right, upon the occurrence or continuance of any Event of Default, to realize upon the personal property subject to this Deed of Trust, independent of any action of Trustee, pursuant to the UCC.

7.5 **Acceptance of Trust.** Trustee accepts this trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto except Beneficiary of pending sale under any other deed of trust or of any action or proceeding in which Grantor, Beneficiary or Trustee shall be a party unless brought by Trustee.

7.6 **Reliance.** Trustee, upon presentation to it of an affidavit signed by Beneficiary setting forth facts showing a default by Grantor under this Deed of Trust, is authorized to accept as true and conclusive all facts and statements therein, and to act thereon hereunder.

7.7 **Replacement of Trustee.** Beneficiary may, from time to time, as provided by statute, appoint another trustee in place and stead of Trustee herein named, and thereupon Trustee herein named shall be discharged and the trustee so appointed shall be substituted as Trustee hereunder, with the same effect as if originally named Trustee herein.

7.8 **No Impairment of Right to Pursue Unsecured Obligations.** The foreclosure of this Deed of Trust or sale by Trustee of the Property through the exercise of its power of sale granted hereunder shall not preclude or impair any action to collect or enforce any obligation of Grantor or any guarantor or other party liable for any of the obligations secured by this Deed of Trust, or the substantial equivalent of such obligation, which obligation is not secured by this Deed of Trust including, without limitation, the obligations of Grantor under the Indemnity Agreement and the obligations of each such guarantor under its guaranty. All of such obligations (and all substantial equivalents of such obligations) shall constitute separate recourse obligations of Grantor and each such guarantor or other party and shall not be deemed to be evidenced by the Note or secured by this Deed of Trust.



200108080064

, Skagit County Auditor



8. NOTICES.

8.1 **Trustee.** Any notice or demand upon Trustee shall be sent to the following address:

First American Title Company of Skagit County  
P.O. Box 1667  
Mount Vernon, WA 98273

8.2 **Grantor and Beneficiary.** Any notice to or demand upon Grantor (including any notice of default or notice of sale) or notice to or demand upon Beneficiary shall be sent to the following address:

If to Grantor: Dane A. and Jacqueline J. Armstrong  
John W. and Nancy J. Rickett  
P. O. Box 13719  
Spokane, WA 99213

If to Beneficiary: Anchor Savings Bank  
Broadway at First  
P. O. Box 387  
Aberdeen, Washington 98520  
Attention: Erv Granahan  
Facsimile Number: (360) 532-8535

With a copy to: Foster Pepper & Shefelman  
1111 Third Avenue, Suite 3400  
Seattle, Washington 98101

or to such other address as may be filed in writing by Grantor or Beneficiary with Trustee.

8.3 **Method of Giving Notice.** Any notices required or allowed to be furnished pursuant to the terms hereof shall be provided to parties, at the addresses set forth above. Notices hereunder shall be in writing and may be hand delivered, mailed, delivered by reputable overnight courier service (such as Federal Express) or, if facsimile numbers are provided below, transmitted by facsimile. If mailed, such notices shall be sent by certified mail, postage prepaid, return receipt requested. The date which is two days after the date of mailing shall be deemed to be the date on which the notice was given. The postmark affixed to such notice by the U.S. Post Office shall be conclusively presumed to be the date of mailing for purposes of this paragraph. In the case of notices given by hand delivery or overnight courier, such notices shall be deemed given on the date of the actual receipt or rejection by the intended recipient. If transmitted by facsimile, such notices shall be deemed given on the date of the actual receipt of a complete, legible facsimile transmission, except that if a facsimile transmission is received after business hours or on a weekend or holiday, then the notice shall be deemed given on the next business day following the receipt of the facsimile transmission.

8.4 **Waiver of Notice.** The giving of notice may be waived in writing by the person or persons entitled to receive such notice, either before or after the time established for the giving of such notice.

9. **MODIFICATIONS.** Upon written request of any party then liable for any sum secured hereby, Beneficiary reserves the right to extend the term, or otherwise modify the terms, hereof or of the Note as Beneficiary and such person may from time to time deem appropriate and any such change shall not operate to release, in any manner, the liability of the original Grantor or Grantor's successors in interest.

10. **SUCCESSORS AND ASSIGNS.** All provisions herein contained shall be binding upon and inure to the benefit of the respective successors and assigns of the parties.

11. **GOVERNING LAW; SEVERABILITY.** This Deed of Trust shall be governed by the law of Washington. In the event that any provision or clause of this Deed of Trust or the Note conflicts with applicable law, the conflict shall not affect other provisions of this Deed of Trust or the Note which can be given effect without the conflicting provision and to this end the provisions of this Deed of Trust and the Note are declared to be severable.



12. **GRANTOR'S RIGHT TO POSSESSION.** Grantor may be and remain in possession of the Property for so long as it is not in default hereunder or under the terms of the Note or the Deed of Trust and Grantor may, while it is entitled to possession of the Property, use the same.

13. **MAXIMUM INTEREST.** No provision of this Deed of Trust or of the Note shall require the payment or permit the collection of interest in excess of the maximum permitted by law. If any excess of interest in such respect is herein or in the Note provided for, neither Grantor nor its successors or assigns shall be obligated to pay that portion of such interest which is in excess of the maximum permitted by law, and the right to demand the payment of any such excess shall be and is hereby waived and this Section 13 shall control any provision of this Deed of Trust or the Note which is inconsistent herewith.

14. **ATTORNEYS' FEES.** In the event any action or proceeding is brought to enforce or interpret the provisions of this Deed of Trust, the prevailing party shall be entitled to recover, as a part of the prevailing party's costs, a reasonable attorneys' fee at trial, in bankruptcy proceedings and on appeal, the amount of which shall be fixed by the court and made a part of any judgment rendered.

15. **PREPAYMENT PROVISIONS.** Reference is made to Section 5 of the Note for provisions limiting prepayment thereof and providing for payment of certain premiums for prepayment, including involuntary prepayment by virtue of a default and acceleration of the indebtedness secured hereby, and/or application of insurance or condemnation proceeds received by Beneficiary toward repayment of the indebtedness secured hereby.

16. **TIME OF ESSENCE.** Time is of the essence under this Deed of Trust and in the performance of every term, covenant and obligation contained herein.

17. **MISCELLANEOUS.**

17.1 Whenever the context so requires the singular number includes the plural herein, and the impersonal includes the personal.

17.2 The headings to the various sections have been inserted for convenient reference only and shall not modify, define, limit or expand the express provisions of this Deed of Trust.

17.3 This Deed of Trust, the Note and the other documents, instruments, and agreements entered into by Grantor and Beneficiary in connection therewith (collectively, the "Loan Documents") constitute the final expression of the entire agreement of the parties with respect to the transactions set forth therein. No party is relying upon any oral agreement or other understanding not expressly set forth in the Loan Documents. The Loan Documents may not be amended or modified except by means of a written document executed by the party sought to be charged with such amendment or modification.

DATED as of the day and year first above written.

**PLEASE NOTE THAT ORAL AGREEMENTS OR ORAL COMMITMENT TO LOAN MONEY, EXTEND CREDIT, OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.**

**GRANTOR:**

**DANE A. ARMSTRONG and JACQUELINE J. ARMSTRONG, husband and wife, as to an undivided 50% interest, and JOHN W. RICKETT and NANCY J. RICKETT, husband and wife, as to an undivided 50%**

  
DANE A. ARMSTRONG

  
JACQUELINE J. ARMSTRONG

  
JOHN W. RICKETT

  
NANCY J. RICKETT



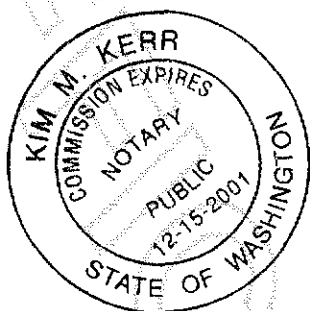
STATE OF WASHINGTON )

COUNTY OF Skagit )

) ss.

I certify that I know or have satisfactory evidence that DANE A. ARMSTRONG and JACQUELINE J. ARMSTRONG are the persons who appeared before me, and said persons acknowledged that said persons signed this instrument and acknowledged it to be said person's free and voluntary act for the uses and purposes mentioned in the instrument.

Dated this 7th day of Aug., 2001.



Kim M. Kerr

(Signature of Notary)

Kim M. Kerr

(Legibly Print or Stamp Name of Notary)

Notary public in and for the state of Washington,  
residing at mt. Vernon

My appointment expires 12/15/2001

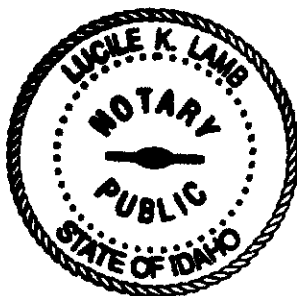
Idaho  
STATE OF ~~WASHINGTON~~ )

COUNTY OF Idaho )

) ss.

I certify that I know or have satisfactory evidence that JOHN W. RICKETT and NANCY J. RICKETT are the persons who appeared before me, and said persons acknowledged that said persons signed this instrument and acknowledged it to be said person's free and voluntary act for the uses and purposes mentioned in the instrument.

Dated this 3rd day of Aug., 2001.



Lucile K. Lamb

(Signature of Notary)

(Legibly Print or Stamp Name of Notary)

Notary public in and for the state of Idaho,  
residing at Idaho

My appointment expires 4-20-2006



200108080064

Skagit County Auditor

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## EXHIBIT A to DEED OF TRUST AND SECURITY AGREEMENT

A certain tract of land situated in SKAGIT COUNTY, Washington, which is more fully described as follows and the improvements now or hereafter located thereon:

### Parcel "A":

That portion of the Southwest 14 of the Southwest 1/4 of Section 17, Township 34 North, Range 4 East, W.M., described as follows:

Beginning at a point in the Southwest 1/4 of the Southwest 1/4 which is 541.8 feet North and 30 feet East of the corner common to Section 17, 18, 19 and 20 of said Township and Range; thence North 53 degrees 14' East 444.3 feet; thence South 43 degrees 11' East 128 feet, more or less, to a point 50 feet distant from and at right angles to the centerline of the abandoned Puget Sound and Cascade Railway Company right-of-way as formerly laid out over and across said Southwest 1/4 of the Southwest 1/4 of said Section 17, said point being the true point of beginning; thence from said true point of beginning run South 65 degrees 40' West, 490 feet, more or less, to a point on the East margin of Riverside Drive, formerly U.S. Highway 99; thence North along the East margin of Riverside Drive, 87.4 feet, more or less, to the Southeasterly line of the Great Northern Railway Company right-of-way; thence Northeasterly along the Southeasterly line of said Great Northern Railway Company right-of-way to the North line of said Southwest 1/4 of the Southwest 1/4; thence East along the North line of said Southwest 1/4 of the Southwest 1/4 to a point 392.70 feet West of the Northeast corner of said Southwest 1/4 of the Southwest 1/4; thence South parallel to the East line of said Southwest 1/4 of the Southwest 1/4, 400 feet; thence West at right angles, 125.0 feet; more or less, to the Southeasterly margin of the abandoned Puget Sound and Cascade Railway right-of-way; thence Southwesterly along the Southeasterly margin of said abandoned right-of-way, 375 feet, more or less, to a point that bears North 43 degrees 11' West from the true point of beginning; thence South 43 degrees 11' East, 12.6 feet, more or less, to the true point of beginning.

### Parcel "B":

That portion of the Southwest 1/4 of the Southwest 1/4 of Section 17, Township 34 North, Range 4 East, W.M., described as follows:

Beginning at the Northeast corner of said subdivision; thence South 0 degrees 03'58" West along the East line thereof, 88.51 feet; thence South 54 degrees 25'58" West, 483.17 feet; thence North 0 degrees 03'58" East parallel with the East line of said subdivision to the North line thereof; thence Easterly along the North line of said subdivision to the point of beginning, EXCEPT that portion, if any, lying within the boundaries of that certain tract conveyed to James A. Duffy and Sharon R. Duffy, husband and wife, by Deed recorded April 27, 1967 under Auditor's File No.698155.



200108080064  
Skagit County Auditor  
8/8/2001 Page 12 of 22 1:28:10PM

**AFTER RECORDING RETURN TO:**

Anchor Savings Bank  
120 N. Broadway  
P.O. Box 387  
Aberdeen, Washington 98520

Attention: Commercial Lending

**ASSIGNMENT OF LEASES AND RENTS**

**Grantor (Borrower):** DANE A. ARMSTRONG and JACQUELINE J. ARMSTRONG, husband and wife and JOHN W. RICKETT and NANCY J. RICKETT, husband and wife.  
**Grantee (Lender):** Anchor Savings Bank, a state savings bank  
**Grantee (Trustee):** First American Title Company of Skagit County  
**Legal Description:** Section 17, Township 34, range 4; Ptn. SW-SW  
Additional Legal(s) on Exhibit A

**Assessor's Tax Parcel:** 340417-3-012-02-3R25540 and 340417-3-013-0102R25541  
**ID Number:** 160273342

THIS ASSIGNMENT OF LEASES AND RENTS ("Assignment") is made this 3rd day of August, 2001 by DANE A. ARMSTRONG and JACQUELINE J. ARMSTRONG, husband and wife and JOHN W. RICKETT and NANCY J. RICKETT, husband and wife, whose address is P.O. Box 13719, Spokane, WA 99213 ("Assignor") in favor of ANCHOR SAVINGS BANK, a state savings bank, whose address is Broadway at First, Aberdeen, Washington 98520 ("Assignee").

FOR VALUE RECEIVED, Assignor does hereby assign, transfer and set over unto Assignee the Identified Leases, if any, as shown in Exhibit A attached hereto and by this reference incorporated herein, and all existing and future leases (including subleases thereof), and any and all extensions, renewals, modifications and replacements thereof, upon all or any part of the premises described more particularly in Exhibit B attached hereto and by this reference incorporated herein (the "Premises"). All such leases, subleases and tenancies are hereinafter referred to as the "Leases."

TOGETHER WITH any and all guaranties of tenants' performance under the Leases.

TOGETHER WITH the immediate and continuing right to collect and receive all of the rents, income, receipts, revenues, issues and profits (hereinafter, the "Rents") now due or which may become due or to which Assignor may now or shall hereafter (including those Rents coming due during any redemption period) become entitled or may demand or claim, arising or issuing from or out of the Leases or from or out of the Premises or any part thereof, including but not limited to minimum rents, additional rents, percentage rents, deficiency rents and liquidated damages following default, and all proceeds payable under any policy of insurance covering loss of rents resulting from untenability caused by destruction or damage to the Premises, together with any and all rights and claims of any kind which Assignor may have against any tenant under the Leases or any subtenants or occupants of the Premises, EXCEPTING THEREFROM, any sums which by the express provisions of any of the Leases are payable directly to any governmental authority or to any other person, firm or corporation other than the landlord under the Lease.

TO HAVE AND TO HOLD the same unto Assignee, its successors and assigns, until termination of this Assignment as hereinafter provided.



SUBJECT, however, to a license hereby granted by Assignee to Assignor, to collect and receive all of the Rents; provided, however, such license is limited as hereinafter provided.

FOR THE PURPOSE OF SECURING the payment of the indebtedness evidenced by a certain promissory note of even date herewith (the "Note") made by DANE A. ARMSTRONG and JACQUELINE J. ARMSTRONG, husband and wife and JOHN W. RICKETT and NANCY J. RICKETT, husband and wife, payable to the order of Assignee, in the amount of Nine Hundred Thousand and No/100 DOLLARS (\$900,000.00), and any extensions, renewals, modifications, or replacements thereof, whether the same be in greater or lesser amounts, and any supplemental note or notes increasing such indebtedness, as well as the payment, observance, performance and discharge of all other obligations, covenants, conditions and warranties contained in the deed of trust, security agreement and assignment of leases and rents (the "Deed of Trust") which are contemporaneously executed herewith, and in any extensions, modifications, supplements and consolidations thereof, covering the Premises and securing the Note and supplemental notes, if any.

**ASSIGNOR AND ASSIGNEE FURTHER COVENANT AND AGREE AS FOLLOWS:**

1. **Assignor's Warranties Re: Leases and Rents.** Assignor represents and warrants that:
  - (a) Assignor has good title to the Leases and Rents hereby assigned and good right to assign the same, and that no other person, firm, or corporation has any right, title or interest therein;
  - (b) Assignor has fully and punctually performed all the terms, covenants, conditions and warranties of the Leases on Assignor's part to be kept, observed and performed;
  - (c) the Identified Leases, if any, and all other existing Leases are valid and unmodified except as indicated on Exhibit A and in full force and effect;
  - (d) Assignor has not previously sold, assigned, transferred, mortgaged or pledged the Rents from the Premises, whether now due or hereafter to become due;
  - (e) except as permitted by Section 3(a) below, any of the Rents due and issuing from the Premises or from any part thereof for any period subsequent to the date hereof have not been collected and that payment of any of same has not otherwise been anticipated, waived, released, discounted, set off, or otherwise discharged or compromised;
  - (f) except as permitted by Section 3(a) below, Assignor has not received any funds or deposits from any tenant for which credit has not already been made on account of accrued Rents; and
  - (g) the tenants under the Identified Leases, if any, and all other existing Leases are not in default of any of the terms thereof, nor is any event existing that would through passage of time, the giving of notice, or the expiration of a period of grace constitute such a default.
2. **Assignor's Covenants of Performance.** Assignor covenants and agrees:
  - (a) to observe, perform and discharge, duly and punctually, all obligations, terms, covenants, conditions and warranties of the Note and Deed of Trust, of the Identified Leases, and of all existing and future Leases affecting the Premises, on the part of Assignor to be kept, observed and performed, and to give prompt notice to Assignee of (i) any failure on the part of Assignor to observe, perform and discharge same, and (ii) any notice, demand or other document received by Assignor from any tenant or subtenant under the Leases specifying any default claimed to have been made by the Assignor under the Leases;
  - (b) to promptly deposit and maintain all security deposits or other deposits received by Grantor from tenants in a segregated trust account in a federally insured bank or savings and loan association and to notify and direct in writing each and every present or future tenant or occupant of the Premises or of any part thereof that any security deposit or other deposits heretofore delivered to Assignor have been retained by Assignor or assigned and delivered to Assignee as the case may be;
  - (c) to strictly enforce or secure, by all available means, in the name of Assignee (upon notice to Assignee) the prompt and faithful performance of and compliance with each and every obligation,



term, covenant, condition and agreement in the Leases by any tenant to be performed and complied with by such tenants, and to notify Assignee of the occurrence of any default under the Leases;

(d) to appear in and defend any action or proceeding arising under, occurring out of, or in any manner connected with the Leases or the obligations, duties, or liabilities of Assignor and any tenant thereunder, and upon request by Assignee, to do so in the name and on behalf of Assignee, but in all cases at the sole expense of Assignor;

(e) to pay all costs and expenses of Assignee, including attorneys' fees in a reasonable sum, in any action or proceeding in which Assignee may appear in connection herewith; and

(f) to neither create nor permit any lien, charge or encumbrance upon its interest as lessor of the Leases except the lien of the Deed of Trust or as provided in the Deed of Trust.

3. **Prior Approval For Actions Affecting Leases.** Assignor further covenants and agrees that it will not, without the prior written consent of Assignee:

(a) receive or collect any rents from any present or future tenant of the Premises or any part thereof for a period of more than two (2) months in advance of the date on which such payment is due, or collect a security deposit in excess of two (2) month's rent (whether in cash or by promissory note),

(b) pledge, transfer, mortgage, or otherwise encumber or assign future payments of Rents;

(c) waive, excuse, condone, discount, set off, compromise, or in any manner release or discharge any tenant under any Leases of the Premises, of and from any obligations, covenants, conditions and agreements by the tenant to be kept, observed and performed, including the obligation to pay the Rents thereunder in the manner and at the place and time specified therein;

(d) cancel, terminate or consent to any surrender of any of the Leases, nor permit any of the aforementioned (other than in connection with a default by the tenant), nor exercise any right of recapture provided in any Leases, nor modify, or in any way alter the terms thereof;

(e) lease any part of the Premises for more than one-year term, nor renew or extend the term of any Leases of the Premises unless an option therefor was originally so reserved by tenants in the Leases for a fixed and definite rental. Notwithstanding the foregoing, Assignor shall be permitted to enter into new leases of individual apartment units of the Premises or renew or extend the terms of any Lease of the Premises without obtaining the consent of Assignor provided: (i) the form of apartment lease attached hereto as Exhibit C is used for such new lease; (ii) the business terms of the new lease or the extended or renewed Lease, including rent and duration of lease term conform with the leasing guidelines attached hereto as Exhibit D; and (iii) Assignor provides Assignee with a copy of all executed new leases and lease amendments within ninety (90) days of execution.

(f) relocate or expand the floor space of any said tenant within the Premises, nor consent to any modification of the express purposes for which the Premises have been leased, nor consent to any subletting of the Premises or any part thereof, or to any assignment of the Leases by any tenant thereunder or to any assignment or further subletting of any sublease.

4. **Rejection of Leases.** In the event any lessee under the Leases should be the subject of any proceeding under the Federal Bankruptcy Act or any other federal, state or local statute which provides for the possible termination or rejection of the Leases assigned hereby, Assignor covenants and agrees that in the event any of the Leases is so rejected, no damages settlement shall be made without the prior written consent of the Assignee; and further that any check in payment of damages for rejection of any such Lease will be made payable both to the Assignor and Assignee; and Assignor hereby assigns any such payment to Assignee and further covenants and agrees that upon request of Assignor it will duly endorse to the order of Assignee any such check, the proceeds of which will be applied to any portion of the indebtedness secured by this Assignment as Assignee may elect.

5. **License to Collect Rents.** So long as there shall exist no default by Assignor in the payment of any indebtedness secured hereby or in the observance and performance of any other obligation, term, covenant or condition or warranty herein or in the Note and Deed of Trust or contained in the Leases, Assignor shall have the right under a license granted hereby (but limited as provided in Section 6



below), to collect, but not prior to accrual, all of the Rents arising from or out of said Leases, or any renewals, extensions, and replacements thereof, or from or out of the Premises or any part thereof; and Assignor shall receive such Rents and shall hold them, as well as the right and license to receive them, as a trust fund to be applied, and Assignor hereby covenants to so apply them, as required by Assignee, firstly, to the payment of taxes and assessments upon said Premises before penalty or interest is due thereon; secondly, to the cost of insurance, maintenance and repairs required by the terms of the Deed of Trust; thirdly, to the satisfaction of all obligations specifically set forth in the Leases; and fourthly, to the payment of interest and principal becoming due on the Note and Deed of Trust, before using any part of the same for any other purposes.

6. **Performance and Termination of License.** Upon the conveyance by Assignor and its successors and assigns of the fee title of the Premises, all right, title, interest and powers granted under the license aforesaid shall automatically pass to and may be exercised by each such subsequent owner; and upon or at any time after default in the payment of any indebtedness secured hereby or in the observance or performance of any obligation, term, covenant, condition or warranty herein, in the Note and Deed of Trust or in the Leases, Assignee, at its option and without notice, shall have the complete right, power and authority hereunder to exercise and enforce any or all of the following rights and remedies at any time:

(a) to terminate the license granted to Assignor to collect the Rents without taking possession of the Premises, and to demand, collect, receive, sue for, attach and levy against the Rents in Assignee's own name; to give proper receipts, releases and acquittance therefor; and after deducting all necessary and proper costs and expenses of operation and collection as determined by Assignee, including reasonable attorneys' fees, to apply the net proceeds thereof, together with any funds of Assignor deposited with Assignee, upon any indebtedness secured hereby and in such order as Assignee may determine;

(b) to declare all sums secured hereby immediately due and payable and, at its option, exercise all or any of the rights and remedies contained herein or in the Note and Deed of Trust;

(c) without regard to the adequacy of the security or the solvency of Assignor, with or without any action or proceeding through any person or by agent, or by the Trustee under the Deed of Trust, or by a receiver to be appointed by a court, and without regard to Assignor's possession, to enter upon, take possession of, manage and operate the Premises or any part thereof; make, modify, enforce, cancel or accept surrender of any Leases now or hereafter in effect on said Premises or any part thereof; remove and evict any tenant; increase or decrease Rents; decorate, clean and repair, and otherwise do any act or incur any costs or expenses as Assignee shall deem proper to protect the security hereof, as fully and to the same extent as Assignor could do if in possession; and in such event, to apply the Rents so collected in such order as Assignee shall deem proper to the operation and management of the Premises, including the payment of reasonable management, brokerage and attorneys fees, payment of the indebtedness under the Note and Deed of Trust, and payment to a reserve fund for replacements, which fund shall not bear interest; and

(d) require Assignor to transfer all security deposits to Assignee, together with all records evidencing such deposits.

Provided, however, that the acceptance by Assignee of this Assignment, with all of the rights, powers, privileges and authority so created, shall not, prior to entry upon and taking possession of said Premises by Assignee, be deemed or construed to constitute Assignee a "mortgagee in possession," nor thereafter or at any time or in any event obligate Assignee to appear in or defend any action or proceeding relating to the Leases or to the Premises, or to take any action hereunder, or to expend any money or incur any expenses or perform or discharge any obligation, duty or liability under the Leases, or to assume any obligation or responsibility for any security deposits or other deposits delivered to Assignor by any lessees thereunder and not assigned and delivered to Assignee; nor shall Assignee be liable in any way for any injury or damage to person or property sustained by any person or persons, firm or corporation in or about the Premises; and

Provided further, that the collection of the Rents and application as aforesaid and/or the entry upon and taking possession of the Premises shall not cure or waive any default; or waive, modify or affect any notice of default required under the Note and Deed of Trust; or invalidate any act done pursuant to such notice. Although the original default be cured and the exercise of any such right or remedy be discontinued, the same or any other right or remedy hereunder shall not be exhausted and may be reasserted at any time and from time to time following any subsequent default. The rights and powers conferred on Assignee hereunder are cumulative of and not in lieu of any other rights and powers otherwise granted Assignee.





7. **Default Hereunder Deemed Default Under Note and Deed of Trust.** In the event any representation or warranty herein of Assignor shall be found to be untrue or misleading in any material respect or Assignor shall default in the observance or performance of any obligation, term, covenant, condition or warranty herein, then in each such instance, the same shall constitute and be deemed to be a default under the Note and Deed of Trust, thereby entitling Assignee to declare all sums secured thereby and hereby immediately due and payable and to exercise any and all of the rights and remedies provided thereunder and herein, as well as by law.

8. **Appointment of Attorney-in-Fact.** Assignor hereby constitutes and appoints Assignee its true and lawful attorney-in-fact, coupled with an interest of Assignor; and in the name, place and stead of Assignor, to subordinate at any time and from time to time, any Leases affecting the Premises or any part thereof, to the lien of the Deed of Trust, or any other deed of trust encumbering the Premises, or to any ground lease of the Premises; and to request or require such subordination where such option or authority was reserved to Assignor under any such Leases, or in any case where Assignor otherwise would have the right, power or privilege so to do. This appointment is to be irrevocable and continuing and these rights, powers and privileges shall be exclusive in Assignee, its successors and assigns as long as any part of the indebtedness secured hereby shall remain unpaid. Assignor hereby warrants that it has not, at any time prior to the date hereof, exercised any right to subordinate any such lease to the Deed of Trust or to any other deed of trust, or ground lease, and further covenants not to exercise any such right.

9. **Indemnification.** Assignor, and if Assignor is a partnership, each general partner of Assignor (collectively, the "Indemnitors"), hereby jointly and severally agree to indemnify and hold Assignee harmless from any and all liability, loss, damage or expense which Assignee may incur under or by reason or in defense of any and all claims and demands whatsoever which may be asserted against Assignee arising out of the Leases, including, but not limited to, any claims by any tenants of credit for rental for any period under any Leases more than one (1) months in advance of the due date thereof, or for any security deposit, paid to and received by Assignor, but not delivered to Assignee. Should Assignee incur any such liability, loss, damage, or expense, the amount thereof (including reasonable attorneys' fees) with interest thereon at the Default Rate of interest specified in the Note, shall be jointly and severally payable by Indemnitors immediately and without demand, and shall be secured as a lien hereby and by the Deed of Trust.

10. **Records.** Until the indebtedness secured hereby shall have been paid in full, Assignor shall, at the request of Assignee, deliver to Assignee executed copies of any and all renewals of existing leases and all future leases upon all or any part of the Premises, and Assignor will transfer and assign such Leases to Assignee upon the same terms and conditions as herein contained, provided, however, that the foregoing shall not be construed as detracting from the validity of this instrument as a valid assignment of any and all existing and future Leases. Assignor hereby covenants and agrees to make, execute and deliver unto Assignee upon demand and at any time any and all assignments and other records and instruments, including, but not limited to, rent rolls and books of account sufficient for the purpose that Assignee may deem to be advisable for carrying out the purposes and intent of this Assignment.

11. **No Waiver.** The failure of Assignee to avail itself of any of the terms, covenants and conditions of this Assignment for any period of time or at any time shall not be construed or deemed to be a waiver of any such right, and nothing herein contained nor anything done or omitted to be done by Assignee pursuant hereto shall be deemed to constitute a waiver by Assignee of any of its rights and remedies under the Note and Deed of Trust or the laws of the state in which the Premises are situated. The rights of Assignee to collect the indebtedness secured hereby, to enforce any other security therefor, or to enforce any other right or remedy hereunder, may be exercised by Assignee either prior to, simultaneously with, or subsequent to, any other action taken hereunder and shall not be deemed an election of remedies.

12. **Primary Security.** This Assignment of Leases and Rents is primary in nature to the obligation evidenced and secured by the Note, Deed of Trust and any other document given to secure and collateralize the indebtedness referred to therein. Assignor further agrees that Assignee may enforce this Assignment without first resorting to or exhausting any other security or collateral; however, nothing herein contained shall prevent Assignee from suing on the Note, foreclosing or exercising the trustee's power of sale under the Deed of Trust or exercising any other right under any other document collateralizing the Note.

13. **Merger.** It is understood and agreed that (i) the fact the Leases or the leasehold estates created thereby may be held, directly or indirectly, by or for the account of any person or entity which shall have an interest in the fee estate of the Premises; or (ii) any other event, shall not merge any Leases



or the leasehold estates created thereby with the fee estate in the Premises as long as any of the indebtedness secured hereby shall remain unpaid, unless Assignee shall consent in writing to such merger.

14. **Termination of Assignment.** Upon payment in full of all of the indebtedness secured by the Note and Deed of Trust and payment of all sums payable hereunder, this Assignment shall be void and of no effect, and Assignee shall execute and record a written instrument terminating this Assignment; but no judgment or decree entered as to said indebtedness shall operate to abrogate or lessen the effect of this Assignment until such indebtedness has actually been paid. The affidavit, certificate, letter or statement of any officer of Assignee showing any part of said indebtedness to remain unpaid shall be and constitute conclusive evidence of the validity, effectiveness and continuing force of this Assignment. Any person, firm or corporation may and is hereby authorized to rely on such affidavit, certificate, letter or statement. A demand by Assignee of any tenant for payment of rents by reason of any default claimed by Assignee shall be sufficient direction to said tenant to make future payments of rents to Assignee without the necessity for further consent by or notice to Assignor.

15. **Notice.** All notices hereunder shall be given in the manner specified in Section 8 of the Deed of Trust.

16. **Assignment Binds Successors.** The terms, covenants, conditions, and warranties contained herein and the powers granted hereby shall run with the land and shall inure to the benefit of and bind all parties hereto and their respective heirs, successors and assigns; all tenants and their subtenants and assigns; and all subsequent owners of the Premises and subsequent holders of the Note and Deed of Trust.

17. **Additional Rights and Remedies.** In addition to but not in lieu of any other rights hereunder, Assignee shall have the right to institute suit and obtain a protective or mandatory injunction to prevent a breach or default of, or to enforce the observation by Assignor of, the agreements, covenants, terms, and conditions contained herein, and shall have the right to damages occasioned by any such breach or default by Assignor.

18. **Location of Performance.** Assignor expressly agrees that this Assignment is performable in SKAGIT County, Washington, waives the right to be sued elsewhere, and agrees and consents to the jurisdiction of any court of competent jurisdiction located in SKAGIT County, Washington.

19. **Severability.** If any provision of this Agreement or the application thereof to any entity, person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Assignment and the application of such provision to other entities, persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

20. **No Third Party Beneficiaries.** It is expressly agreed by Assignor that this Assignment shall not be construed or deemed made for the benefit of any third party or parties.

21. **Entire Agreement.** This document (and any relevant provisions of the Deed of Trust except to the extent they are in conflict herewith, in which event the provisions of this Assignment shall control), contain the entire agreement concerning the assignment of rents and leases between the parties hereto. No variations, modifications or changes herein or hereof shall be binding upon any party hereto unless set forth in a document duly executed by or on behalf of such party.

22. **Construction.** Whenever used herein whenever the context so requires, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders. All obligations of each Assignor hereunder shall be joint and several.

23. **Governing Law.** The parties agree that the law of the State of Washington shall govern the performance and enforcement of this Assignment.

24. **Attorneys' Fees.** In the event any action or proceeding is brought to enforce or interpret the provisions of this Assignment, the prevailing party shall be entitled to recover, as a part of the prevailing party's costs, a reasonable attorneys' fee at trial, in bankruptcy proceedings and on appeal, the amount of which shall be fixed by the court and made a part of any judgment rendered.



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Skagit County Auditor

8/8/2001 Page 18 of 22 1:28:10PM


DATED as of the day and year first above written.

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

ASSIGNOR:

  
DANE A. ARMSTRONG

  
JOHN W. RICKETT

  
JACQUELINE J. ARMSTRONG

  
NANCY J. RICKETT



STATE OF WASHINGTON )

COUNTY OF Skagit )

) ss.

I certify that I know or have satisfactory evidence that DANE A. ARMSTRONG and JACQUELINE J. ARMSTRONG are the persons who appeared before me, and said persons acknowledged that said persons signed this instrument and acknowledged it to be said person's free and voluntary act for the uses and purposes mentioned in the instrument.

Dated this 7th day of Aug., 2001.



Kim M. Kerr  
(Signature of Notary)

Kim M. Kerr  
(Legibly Print or Stamp Name of Notary)

Notary public in and for the state of Washington,  
residing at mt. vernon

My appointment expires 12/15/2001

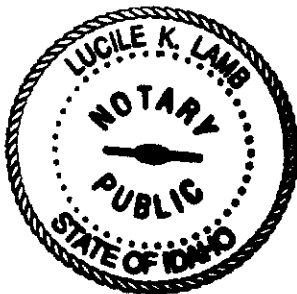
Idaho  
STATE OF ~~WASHINGTON~~ )

COUNTY OF Idaho )

) ss.

I certify that I know or have satisfactory evidence that JOHN W. RICKETT and NANCY J. RICKETT are the persons who appeared before me, and said persons acknowledged that said persons signed this instrument and acknowledged it to be said person's free and voluntary act for the uses and purposes mentioned in the instrument.

Dated this 3rd day of Aug., 2001.



Lucile K. Lamb  
(Signature of Notary)

(Legibly Print or Stamp Name of Notary)  
Notary public in and for the state of Idaho,  
residing at Idaho

My appointment expires 4-20-2006



200108080064  
Skagit County Auditor

**EXHIBIT A TO ASSIGNMENT OF LEASES AND RENTS**

None Identified at this time.



## EXHIBIT B TO ASSIGNMENT OF LEASES AND RENTS

A certain tract of land situated in SKAGIT COUNTY, Washington, which is more fully described as follows and the improvements now or hereafter located thereon:

### Parcel "A":

That portion of the Southwest 1/4 of the Southwest 1/4 of Section 17, Township 34 North, Range 4 East, W.M., described as follows:

Beginning at a point in the Southwest 1/4 of the Southwest 1/4 which is 541.8 feet North and 30 feet East of the corner common to Section 17, 18, 19 and 20 of said Township and Range; thence North 53 degrees 14' East 444.3 feet; thence South 43 degrees 11' East 128 feet, more or less, to a point 50 feet distant from and at right angles to the centerline of the abandoned Puget Sound and Cascade Railway Company right-of-way as formerly laid out over and across said Southwest 1/4 of the Southwest 1/4 of said Section 17, said point being the true point of beginning; thence from said true point of beginning run South 65 degrees 40' West, 490 feet, more or less, to a point on the East margin of Riverside Drive, formerly U.S. Highway 99; thence North along the East margin of Riverside Drive, 87.4 feet, more or less, to the Southeasterly line of the Great Northern Railway Company right-of-way; thence Northeasterly along the Southeasterly line of said Great Northern Railway Company right-of-way to the North line of said Southwest 1/4 of the Southwest 1/4; thence East along the North line of said Southwest 1/4 of the Southwest 1/4 to a point 392.70 feet West of the Northeast corner of said Southwest 1/4 of the Southwest 1/4; thence South parallel to the East line of said Southwest 1/4 of the Southwest 1/4, 400 feet; thence West at right angles, 125.0 feet; more or less, to the Southeasterly margin of the abandoned Puget Sound and Cascade Railway right-of-way; thence Southwesterly along the Southeasterly margin of said abandoned right-of-way, 375 feet, more or less, to a point that bears North 43 degrees 11' West from the true point of beginning; thence South 43 degrees 11' East, 12.6 feet, more or less, to the true point of beginning.

### Parcel "B":

That portion of the Southwest 1/4 of the Southwest 1/4 of Section 17, Township 34 North, Range 4 East, W.M., described as follows:

Beginning at the Northeast corner of said subdivision; thence South 0 degrees 03'58" West along the East line thereof, 88.51 feet; thence South 54 degrees 25'58" West, 483.17 feet; thence North 0 degrees 03'58" East parallel with the East line of said subdivision to the North line thereof; thence Easterly along the North line of said subdivision to the point of beginning, EXCEPT that portion, if any, lying within the boundaries of that certain tract conveyed to James A. Duffy and Sharon R. Duffy, husband and wife, by Deed recorded April 27, 1967 under Auditor's File No.698155.

