



200202140112  
Skagit County Auditor

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RECORDED AT THE REQUEST OF:  
AND AFTER RECORDING RETURN TO:

Brian J. Danzig  
FOSTER PEPPER & SHEFELMAN PLLC  
1111 Third Avenue, Suite 3400  
Seattle, WA 98101

FIRST AMERICAN TITLE CO.

66324-2

**DEED AND  
ASSIGNMENT AND ASSUMPTION OF REAL ESTATE  
CONTRACTS**

Grantor/Assignor: ETERA CORPORATION, a Washington corporation

Grantee/Assignee: M.V. GREENHOUSE, LLC, a Washington limited liability company

Legal Description: Section 18, Township 34N, Range 4  
Official legal description on Exhibits A and B

Assessor's Tax Parcel ID#: 340313-1-002-0008; 340313-001-0009; 340313-0-011-0009; 340418-0-010-004; ~~340414-0-080-0005~~; 340418-0-006-0000; 340418-0-007-0009; 340313-0-080-00005

Reference # (If applicable): 9810300151 and 9810300152

THIS DEED AND ASSIGNMENT AND ASSUMPTION OF REAL ESTATE CONTRACTS (this "Deed and Assignment") is made as of this 28<sup>th</sup> day of September, 2001, by and between ETERA CORPORATION, a Washington corporation ("Assignor") and M.V. GREENHOUSE, LLC ("Assignee").

## RECITALS

A. John R. Klein and Annita M. Klein, husband and wife (collectively "Klein") as seller, and Summersun/Terra Plug L.L.C., a Washington limited liability company ("Summersun/Terra"), as purchaser, entered into that certain Real Estate Contract dated August 1, 1998, and recorded October 30, 1998 at Auditor's No. 9810300151, records of Skagit County, Washington ("Parcel C Contract") affecting that certain property described on Exhibit "A" attached hereto; and

B. Klein, as seller, and Summersun Greenhouse Company, a Washington corporation ("Summersun"), as purchaser, entered into that certain Real Estate Contract dated as of August 1, 1998, and recorded October 30, 1998 at Auditor's No. 9810300152, records of Skagit County, Washington ("Parcel B Contract") affecting that certain property described on Exhibit "B" attached hereto. The property described on Exhibit "A" and Exhibit "B" attached hereto is hereinafter collectively referred to as the "Property". The Parcel C Contract and the Parcel B Contract, and any amendments thereto, are hereinafter collectively referred to as the "Contracts". Capitalized terms used in this Deed and Assignment and not defined herein shall have the meanings ascribed to them in the Contracts.

C. Assignor is the successor-in-interest to Summersun/Terra and Summersun as purchaser under the Contracts.

D. Pursuant to the terms of the Asset Purchase and Sale Agreement ("Purchase Agreement"), Assignor is required to assign, transfer, sell, convey, grant, and deliver all of Assignor's right, title, and interest in, to, and under the Contracts to Assignee, including all of Assignor's legal and equitable interest in the Property.

E. Assignor desires to assign, transfer, sell, convey, grant, and deliver to Assignee and Assignee desires to assume all of Assignor's right, title, and interest in, to and under the Contracts in connection with the consummation of the purchase and sale of the Property including all of Assignor's legal and equitable interest in the Property.

## AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and upon the conditions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee agree as follows:

1. Effective Date. The "Effective Date" is defined to be the date of recordation of this Deed and Assignment conveying title to the Property to Assignee in the Official Records of Skagit County, State of Washington, pursuant to the terms of the Purchase Agreement.

2. Deed and Assignment.

2.1 Assignor hereby quitclaims, assigns, sells, transfers, grants, delivers, and conveys to Buyer all of Assignor's legal and equitable right, title and interest in the Property.

2.2 Upon the Effective Date, Assignor assigns, sells, transfers, grants, delivers, and conveys to Buyer all of Assignor's right, title and interest in, to, and under the Contracts.

3. Representations.

3.1 A true, correct and complete copy of the Parcel C Contract is recorded in the Official Records of Skagit County as instrument number 9810300151. As of the date hereof, the outstanding and unpaid amount under the Parcel C Contract is \$318,151.23 and except as expressly provided under the Parcel C Contract, no other amount is necessary to pay in full the obligations of the purchaser thereunder. Assignor is the sole owner of the purchaser's interest under the Parcel C Contract and has made no prior conveyance thereof and no other person or entity has any interest therein. The Parcel C Contract is unmodified and in full force and effect as of the date hereof. There are no oral agreements or understandings regarding the Parcel C Contract.

3.2 A true, correct and complete copy of the Parcel B Contract is recorded in the Official Records of Skagit County as instrument number 9810300152. As of the date hereof, the outstanding and unpaid amount under the Parcel B Contract is \$141,668.07 and except as expressly provided under the Parcel B Contract, no other amount is necessary to pay in full the obligations of the purchaser thereunder. Assignor is the sole owner of the purchaser's interest under the Parcel B Contract and has made no prior conveyance thereof and no other person or entity has any interest therein. The Parcel B Contract is unmodified and in full force and effect as of the date hereof. There are no oral agreements or understandings regarding the Parcel B Contract.



4. Miscellaneous.

4.1 Section Headings. The headings of sections are inserted only for convenience and shall in no way define, describe, or limit the scope or intent of any provision of this Deed and Assignment.

4.2 No Oral Modifications. This Deed and Assignment may not be amended or modified except in writing executed by all parties hereto.

4.3 Binding Effect. This Deed and Assignment shall be binding upon and inure to the benefit of the parties hereto, and their respective successors and assigns.

4.4 Attorneys' Fees. If an action is commenced by a party hereto resulting from a dispute with respect to the transaction contemplated herein, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs from the other party in such action. As used herein, the term "attorneys' fees" means attorneys' fees whether or not litigation ensues and if litigation ensues whether incurred at trial, on appeal, or otherwise.

4.5 Governing Law. This Deed and Assignment will be governed by, interpreted under, and construed and enforced in accordance with the laws of the State of Washington.

4.6 Severability. The invalidity, illegality, or unenforceability of any provision of this Deed and Assignment shall not affect the enforceability of any other provision of this Deed and Assignment, all of which shall remain in full force and effect.

4.7 Time of the Essence. Time is of the essence of this Deed and Assignment and of the obligations required hereunder.

4.8 Further Assurances. The parties agree to execute all documents and instruments reasonably required in order to consummate the transactions contemplated in this Deed and Assignment.

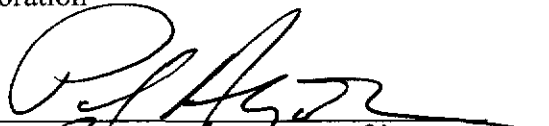
4.9 Counterparts. This Deed and Assignment may be executed in any number of counterparts and each such counterpart shall be deemed to be an original, but all of which, when taken together, shall constitute one agreement.



IN WITNESS WHEREOF, Assignor and Assignee have executed this Deed and Assignment as of the date first above written.

ASSIGNOR:

ETERA CORPORATION, a Washington corporation


By: 

Name: Paul Henderson

Title: Interim CEO

ASSIGNEE:

M.V. GREENHOUSE, LLC, a Washington limited liability company

By: 

Name: STANLEY BATY

Title: MANAGER



STATE OF WASHINGTON

COUNTY OF KING

SS.

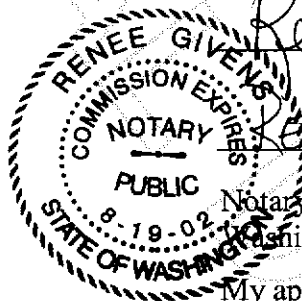
I certify that I know or have satisfactory evidence that PAUL ABRAMOWITZ is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged it as Interim CEO of **ETERA CORPORATION**, a corporation, to be the free and voluntary act of such corporation for the uses and purposes mentioned in the instrument.

Dated this 16 day of November, 2001.

625  
SKAGIT COUNTY WASHINGTON  
Real Estate Excise Tax

FEB 14 2002

Auditor and  
Skagit County Treasurer  
By: man Deputy



Renee Givens  
(Signature of Notary)

RENEE GIVENS  
(Legibly Print or Stamp Name of Notary)

Notary public in and for the State of  
Washington, residing at Puyallup

My appointment expires 8-19-02



STATE OF WASHINGTON

SS.

COUNTY OF KING

I certify that I know or have satisfactory evidence that STANLEY BATY is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged it as a member of **M.V. GREENHOUSE LLC**, a limited liability company, to be the free and voluntary act of such limited liability company for the uses and purposes mentioned in the instrument.

Dated this 16 day of November, 2001.

Renee Givens  
(Signature of Notary)  
RENEE GIVENS  
(Legibly Print or Stamp Name of Notary)  
PUBLIC Notary, public in and for the State of  
Washington, residing at Payallup  
My appointment expires 8-19-02

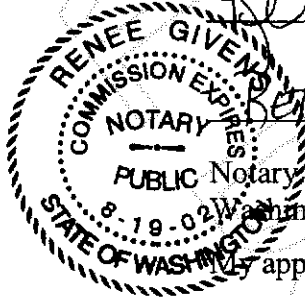


EXHIBIT "A"

Legal Description

Parcel "C":

Those portions of Government Lots 2 and 3 of Section 18, Township 34 North, Range 4 East, W.M., and of the East 1/2 of Section 13, Township 34 North, Range 3 East, W.M., described as follows:

Begin at the intersection of the South line of said Government Lot 2 and the fence line marking the East line of those certain premises sold to Summersun Greenhouse Company by Real Estate Contract recorded as Auditor's File No. 9709220099, continued South; thence North 00 degrees 44'51" West, 554.06 feet; thence North 88 degrees 19'23" West, 3096.69 feet, more or less, to a point on the East line of the West 100 feet of the Southwest 1/4 of the Northeast 1/4 of said Section 13, said point being the true point of beginning; thence South 88 degrees 19'23" East, 3096.69, more or less, to the above referenced fence line; thence South 00 degrees 44'51" East, 554.06 feet, along said fence line to the South line of said Government Lot 2; thence along said South line North 89 degrees 38'59" West, a distance of 231.37 feet; thence South 00 degrees 35'38" East, a distance of 1580.84 feet; thence North 73 degrees 16'10" West to the East line of the West 15 acres of said Government Lot 3; thence North 00 degrees 06'25" West, along said East line to the North line of those certain premises conveyed to Randy Adams by Deed recorded as Auditor's File No. 8504040048; thence North 73 degrees 14'33" West along said North line to the Northwest corner thereof; thence South 00 degrees 06'25" East, 130 feet to the North line of the County Road right-of-way known as the Riverbend Road; thence Northwesterly along said North line to the Southeast corner of that certain tract conveyed to Mathew M. Paul and Wilma Paul by Partial Fulfillment Deed recorded January 16, 1974 under Auditor's File No. 795687; thence North 1 degree 26'30" East along the East line of said Paul Tract, a distance of 415.0 feet to the Northeast corner thereof; thence North 60 degrees 03'23" West along the North line of said Paul Tract, a distance of 91.03 feet to the Northwest corner thereof and the East line of the West 100 feet of Government Lot 6 of said Section 13; thence North 1 degree 26'30" East along the East line of the West 100 feet to the point of beginning.

Exhibit "A"  
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EXCEPT therefrom the following described:

Beginning at the Southeast corner of the West 100 feet of the Northeast 1/4 of said Section 13; thence North 1 degree 26'30" East along the East line of said West 100 feet, a distance of 486.43 feet; thence North 87 degrees 40'33" East parallel with the South line of the Northeast 1/4 of said Section 13, a distance of 1450.57 feet; thence South 11 degrees 37'55" West, a distance of 877.46 feet; thence South 20 degrees 09'08" East, a distance of 660.48 feet; thence South 19 degrees 09'54" West, a distance of 104.43 feet to the North line of the County Road; thence along the North line of the County Road through the following four courses; North 68 degrees 55'40" West, a distance of 97.55 feet to the point of curvature of a curve to the left having a radius of 5203.50 feet; thence Westerly along said curve through a central angle of 3 degrees 12'32", and an arc distance of 291.42 feet; thence North 72 degrees 08'12" West, a distance of 845.63 feet to the point of curvature of a curve to the right having a radius of 1333.50 feet; thence Westerly along said curve through a central angle of 11 degrees 18'11", and an arc distance of 263.07 feet to the Southeast corner of that certain tract conveyed to Mathew M. Paul and Wilma Paul by Partial Fulfillment Deed recorded January 16, 1974 under Auditor's File No. 795687; thence North 1 degree 26'30" East along the East line of said Paul Tract, a distance of 415.00 feet to the Northeast corner thereof; thence North 60 degrees 03'23" West along the North line of said Paul Tract, a distance of 91.03 feet to the Northwest corner thereof and the East line of the West 100 feet of Government Lot 6 of said Section 13; thence North 1 degree 26'30" East along the East line of the West 100 feet, a distance of 76.36 feet to the point of beginning.

Exhibit "A"  
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EXHIBIT "B"

Legal Description

Parcel "B":

Those portions of Government Lot 2 of Section 18, Township 34 North, Range 4 East, W.M., and of the Northeast 1/4 of Section 13, Township 34 North, Range 3 East, W.M., described as follows:

Begin at the intersection of the South line of said Government Lot 2 and the fence line marking the East line of those certain premises sold to Summersun Greenhouse Company by Real Estate Contract recorded as Auditor's File No. 9709220099, continued South; thence North 00 degrees 44'51" West 554.06 feet to the true point of beginning; thence North 88 degrees 19'23" West, 3096.69 feet, more or less, to a point on the East line of the West 100 feet of the Southwest 1/4 of the Northeast 1/4 of said Section 13; thence North 01 degree 15'37" East along said East line to a point on the North line of said subdivision; thence South 85 degrees 31'33" West along said North line, 100.50 feet to an existing fence line; thence North 00 degrees 42'21" East along said fence line to the Southerlymost Southeast corner of said Summersun premises; thence South 89 degrees 13'02" East along the South line of said Summersun premises, 3162.30 feet to the Southeast corner thereof; thence South 00 degrees 44'51" East along the fence line, marking the East line of said Summersun premises, continued South, a distance of 564.21 feet, more or less, to the true point of beginning.

Exhibit "P"

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