



200307080017

Skagit County Auditor

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RECORDING REQUESTED BY AND WHEN RECORDED MAIL TO:

Laura Minton Breckenridge  
P.O. Box 178  
Bow, WA 98232

m13976

LAND TITLE COMPANY OF SKAGIT COUNTY

THIS SPACE RESERVED FOR RECORDER'S USE

### EASEMENT AGREEMENT

The information contained in this boxed section is for recording purposes only pursuant to RCW 36.18 and RCW 65.04, and is not to be relied upon for any other purpose, and shall not affect the intent of or any warranty contained in the document itself.

**Grantor:** Anlia LLC

**Grantee:** Thomas J. Paulus and Suzanne J. Paulus, husband and wife, tenants in common

**Reference Number of Documents Assigned or Released:** N/A

**Abbreviated Legal Description:** SE ¼ SE ¼ S 18 T2N 35 N, R 3 E, W.M. and NE ¼ NE ¼, S 19, T2N 35 N, R 3 E, W.M. and NE ¼ OF THE SE ¼ OF S 18, T2N 35 N, R 3 E, W.M.; W ½ OF NW ¼; W ½ OF NE ¼ OF NW ¼; E ½ OF THE NW ¼ OF THE SW ¼, S 17, T2N 35 N, R 3 E, W.M.

**Complete Legal Descriptions set forth in Exhibits A and B of Document.**

**Assessor's Parcel Numbers:** 350318-4-004-0004, 350319-1-001-0002 and 350318-0-007-0009, 350317-3-003-0008, 350317-2-002-0001, 350317-2-004-0009, 350317-2-003-0000, 350317-2-006-0007, 350317-3-004-0007, 350317-3-002-0009, 350307-4-0007, 350308-3-003-0009, 350308-3-002-0000

THIS EASEMENT AGREEMENT ("Agreement") is entered into between ANLIA LLC ("Anlia") and THOMAS J. PAULUS AND SUZANNE J. PAULUS, husband and wife, tenants in common (collectively "Paulus"), as of May 22, 2003 ("Effective Date").

#### RECITALS

A. Anlia is the owner of real property more particularly described in **Exhibit A**, attached hereto and incorporated herein by reference ("Anlia Property"). Thomas J. Paulus and Suzanne J. Paulus, husband and wife, are the tenants in common owners of real property more particularly described in **Exhibit B**, attached hereto and incorporated herein by reference ("Paulus Property").

B. Paulus wishes to obtain from Anlia, and Anlia has agreed to grant to Paulus, an easement over and around the Anlia Property as described in **Exhibit A**, attached hereto and incorporated herein by reference (the "Easement Area"), together with an easement for ingress and egress to the Easement Area, upon the terms and conditions set forth in this Agreement.

NOW, THEREFORE, the parties agree as follows:

## AGREEMENT

1. Grant of Easement. Anlia, on behalf of itself and its successors and assigns, hereby grants and conveys to Paulus, and their agents, tenants, successors and assigns, a non-exclusive easement over, under, across and through the Easement Area for the purpose of installing, constructing, operating, maintaining, repairing, adding to, altering or replacing, present or future irrigation equipment and systems, including but not limited to, pipe, electrical wiring, electrical control boxes, wells, well heads, pump heads, pump houses, valves, meters, connections, retention ponds and other appurtenant facilities, for the withdrawal, transmission and distribution of water, through, upon and across the Anlia Property (collectively, "Equipment"). Paulus, on behalf of themselves and their agents, successors and assigns, shall also have the right of ingress and egress to the Easement Area.

2. Conditions of Easement. This easement is granted subject to and conditioned upon the following terms, conditions and covenants which Paulus, their agents, tenants, successors and assigns, promise to faithfully and fully observe and perform:

2.1 Rights of Easement. Paulus, their agents, tenants, successors and assigns, shall have the non-exclusive use of the Easement Area, and right of way to and from the Easement Area, for the purposes identified in paragraph 1 above, and shall have the right to use abutting land adjoining the Easement Area when necessary, provided, however, that the right to use abutting land shall be exercised only during periods of actual installation or maintenance, and then only to the minimum extent necessary for such installation and maintenance. Paulus, their agents, tenants, successors and assigns shall exercise their rights under this Agreement so as to minimize and avoid interference with Anlia and its use of the Anlia Property. Paulus shall also take care to minimize any negative impact, whether functional or aesthetic, on the Easement Area and the Anlia Property.

2.2 Anlia's Rights. Anlia reserves the right to itself to make any use of the Easement Area that is not inconsistent with the rights conveyed to Paulus under this Agreement or that does not interfere with the use of the Easement Area by Paulus, including the construction and maintenance of roadways and fencing over the Easement Area. Paulus acknowledges Anlia has a residence, office, garage and other outbuildings on its property in addition to roadways, fencing, walls, trails and extensive landscaping and nothing in this Agreement shall prevent or preclude Paulus from their use, maintenance, repair or improvement of those existing improvements or undertaking any future improvements. Paulus shall not be liable to Anlia or to Anlia's agents, tenants, successors, assigns, contractors or users of the Equipment for loss or injury resulting from any damage or destruction of the Equipment, directly or indirectly caused by Paulus.

2.3 Permissible Use. Paulus agrees it will use the Easement Area only for permissible purposes consistent with the rights and usage set forth in this Agreement. Paulus, their agents, successors and assigns may not use or permit the use of the Easement Area for any purpose prohibited by any law, ordinance, regulation, covenant, condition or restriction.



2.4 As-Built Survey. Upon Anlia's request, Paulus shall, at their own expense, promptly provide Anlia with as-built drawings and surveys showing the location and depth of the Equipment ("Survey"). Upon completion of the Survey, at Anlia's option, this Agreement shall be amended to limit the Easement Area to those areas in which the Equipment is located, as depicted in the Survey.

2.5 Equipment and Activities. The following provisions shall apply with respect to the Equipment and Paulus' activities:

2.5.1 Ownership. The Equipment installed in the Easement Area shall be and remain the property of Paulus, their successors and assigns.

2.5.2 Maintenance. The expense of installation, construction, operation, maintenance, repair, replacement and use of the Equipment shall be paid entirely by Paulus.

2.5.3 Changes in Location of Equipment. Should Paulus' use of the Easement Area or the Equipment in any way interfere with Anlia's use or enjoyment of the Anlia Property, Anlia may, at its discretion, require Paulus to relocate, alter or make any changes to the Equipment, and their location, that Anlia shall deem necessary. In such case, Paulus shall promptly undertake the relocation or alteration at Paulus' sole cost and expense, including all direct and indirect cost of materials, labor and services.

2.5.4 Approval. From and after the Effective Date, prior to the construction or installation of any Equipment or any other substantial activity by Paulus, their agents, tenants, successors and assigns, on or around the Easement Area, Paulus shall submit to Anlia notice of the proposed activity, together with written plans for the activity and no such work shall be commenced without Anlia's prior written approval of the plans. Any changes or revisions in the plans shall also be subject to Anlia's prior written approval. Nothing in this Agreement shall be deemed to impose any duty or obligation on Anlia to determine the adequacy or sufficiency of Paulus' plans and designs, or to ascertain whether Paulus' work is in conformance with the plans and specifications approved by Anlia.

2.5.5 Work Standards. Paulus shall coordinate with Anlia the dates of installation, construction and major repair or maintenance of the Equipment, as well as other major activities. All work to be performed by Paulus in the Easement Area shall be completed in a careful and workmanlike manner, to Anlia's satisfaction, and free of claims and liens.

2.5.6 Restoration Obligation. Paulus shall have the right to trim, cut and remove trees, shrubbery, fences, or other facilities in or abutting the Easement Area if they interfere with the efficient installation, operation and maintenance of the Equipment. Paulus, however, shall, at their own expense, restore, as nearly as possibly, to their original condition, all land and facilities within the Easement Area or abutting the Easement Area that are disturbed in any manner by the installation, operation and maintenance of the Equipment. This restoration obligation shall extend to, but shall not be limited to, the backfilling of trenches, the replacement of fences, the reseeding or resodding of lawns or pasture areas, the replacement of shrubbery,



trees, and landscaping and the repair and replacement of drainage and roadways and other facilities located within the Easement Area.

2.6 Hazardous Substances and Waste. Both parties, and their successors and assigns, covenant and agree they will not use, store or dispose of any hazardous substances or waste in or around the Easement Area and further covenant and agree they shall strictly comply with any and all governmental laws, regulations and ordinances regarding the handling, transportation and storage of hazardous substances and hazardous wastes.

2.7 Indemnification.

2.7.1 Right to Indemnification. The parties shall defend, indemnify and hold one another harmless from and against liabilities, claims, actions, damages, demands, costs and expenses of any kind or nature, including but not limited to legal fees and costs and other professional expenses, arising out of or in connection with the other party's acts or omissions. The indemnification rights set forth in this Agreement shall survive the termination date of this Agreement and the termination date of the easement.

2.7.2 Procedure Regarding Indemnification Rights. In the event either party receives notice of a claim or demand against which it is entitled to indemnification pursuant to this paragraph, it shall immediately give written notice of the claim to the other party. The party obligated to indemnify shall immediately take such measures as may be reasonably required to properly and effectively defend against the claim, and may defend the claim with counsel of its own choosing, approved by the other party provided such approval is not unreasonably withheld or delayed. In the event the party obligated to indemnify fails to properly and effectively defend the claim, then the party entitled to indemnification may defend the claim with counsel of its own choosing at the expense of the party obligated to provide a defense.

2.8 Insurance. The parties shall each obtain, at their own expense, commercial general liability insurance with liability limits of at least Two Million Dollars (\$2,000,000) for any one occurrence. At the request of the other party, each party shall be obligated to: (a) name the requesting party as a named insured under the other party's commercial general liability insurance policy; and/or (b) provide the other with a certificate of insurance, fifteen (15) days from the date of request, reflecting that such insurance is in place.

2.9 Termination. In the event Paulus, their agents, tenants, successors or assigns, fails to cure a breach or default under this Agreement within twenty (20) days of Paulus giving Anlia written notice of the breach or default, Anlia may terminate Paulus' rights under this Agreement in addition to any other remedy. In the event Paulus ceases to use the Equipment for a period of five (5) successive years, this Agreement, and Paulus' rights under this Agreement, shall terminate and revert to Anlia. Upon termination of this Agreement, Paulus shall, at the option of Anlia, remove the Equipment and restore the ground to its prior conditions, or, in the alternative, restore the Anlia Property or take such other mutually agreed upon measures to minimize the impact of the Equipment. This work shall be done at the sole cost and expense of Paulus and in a manner satisfactory to Anlia. In case of Paulus' failure to remove the



Equipment or take such other mutually agreed upon measures, Anlia may, after reasonable notice to Anlia, remove the Equipment, restore the ground or take other measures at Paulus' expense.

2.10 Third Party Rights. Anlia reserves all rights with respect to the Anlia Property, including, without limitation, the right to grant easements, licenses and permits to others subject to the rights granted in this Agreement.

2.11 Assignment and Successors. Paulus shall not assign any rights under this Agreement without the prior written consent of Anlia. Any assignment without the prior written consent of Anlia shall be invalid. Subject to the preceding, the rights and obligations of the parties shown inure to the benefit of and be binding upon their respective successors and assigns.

3. General Provisions. The following general provisions shall apply with respect to this Agreement:

3.1 Successors and Assigns. The rights and obligations created pursuant to this Agreement shall bind all subsequent owners of the Anlia Property, as described in **Exhibit A**, as well as subsequent owners of the Anlia Property, as described in **Exhibit B**.

3.2 Running Covenants. This Agreement is, and in all events shall be, understood to relate to the properties described in **Exhibit A** and **Exhibit B** and shall be deemed to be covenants running with the land and shall inure to and be binding upon successors, assigns, heirs and personal representatives of the parties.

3.3 Entire Agreement; Modifications. This Agreement is the entire understanding between the parties with respect to the transactions contemplated herein and all prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged into this Agreement. Neither this Agreement nor any provision in this Agreement may be waived, modified, amended, discharged or terminated, except by an instrument in writing signed by both parties and then, only to the extent set forth in such instrument.

3.4 Notices. Any notice required or permitted to be delivered under this Agreement shall be in writing and shall be validly given and made to another party if delivered either personally or by Federal Express or other overnight delivery service of recognized standing. If such notice is personally delivered, it shall be deemed given and received at the time of such delivery. If such notice is delivered by Federal Express, or other overnight delivery service of recognized standing, it shall be deemed given one (1) business day after the deposit with such delivery service. Each such notice shall be deemed given only if properly addressed to the party to whom such notice is given, as follows:

SKAGIT COUNTY WASHINGTON  
REAL ESTATE EXCISE TAX

JUL 08 2003

Amount Paid \$  
Skagit Co. Treasurer  
By  Deputy



If to Anlia:

Anlia LLC  
13596 Penfield Point  
San Diego, CA 92130  
Attention: C. Michelle Paulus, Manager

If to Paulus:

Thomas J. Paulus  
12708 Leatherwood Lane  
P.O. Box 178  
Bow, WA 98232

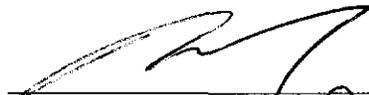
3.5 Attorney's Fees. Should either party employ an attorney or attorneys to enforce any of the provisions in this Agreement or to protect its interest in any manner arising under this Agreement, or to recover damages for any breach under this Agreement, the breaching party agrees to pay the non-breaching party its reasonable costs, damages, and expenses, including attorneys' fees incurred.

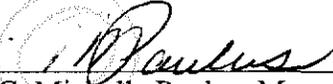
3.6 Severability. If one or more of the provisions of this Agreement, or its application, is determined to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions or any other application shall in no way be affected or impaired.

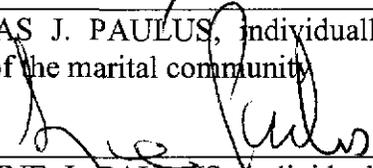
3.7 Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

PAULUS TENANTS IN COMMON

ANLIA LLC,  
a Washington limited liability company

  
\_\_\_\_\_  
THOMAS J. PAULUS, individually and on  
behalf of the marital community

By:   
\_\_\_\_\_  
C. Michelle Paulus, Manager

  
\_\_\_\_\_  
SUZANNE J. PAULUS, individually and on  
behalf of the marital community



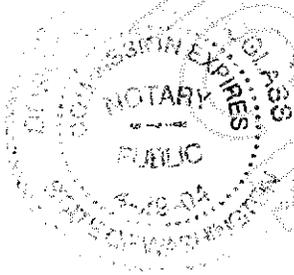
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STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF SKAGIT )

On this 23<sup>rd</sup> of May, 2003 before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared before me Thomas J. Paulus, to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that he signed the same as his free and voluntary act and deed, for the uses and purposes therein mentioned.

Witness my hand and official seal hereto, affixed the day and year first above written.



*Dorothy A. Grossglass*  
Dorothy A. Grossglass  
Notary Public, State of Washington  
Residing in Skagit County  
My Commission Expires: 4/29/2004

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF SKAGIT )

On this 25<sup>th</sup> of May, 2003 before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared before me Suzanne J. Paulus, to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that she signed the same as her free and voluntary act and deed, for the uses and purposes therein mentioned.

Witness my hand and official seal hereto, affixed the day and year first above written.



*Dorothy A. Grossglass*  
Dorothy A. Grossglass  
Notary Public, State of Washington  
Residing in Skagit County  
My Commission Expires: 4/29/2004

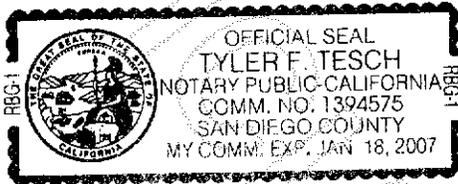


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STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF San Diego )

On this 5<sup>th</sup> of June, 2003 before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared before me C. Michelle Paulus, to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that she signed the same as her free and voluntary act and deed, for the uses and purposes therein mentioned.



Tyler F. Tesch  
Printed Name: Tyler F. Tesch  
Notary Public, State of California  
Residing in San Diego  
My Commission Expires: Jan. 18, 2007



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**EXHIBIT A**  
**ANLIA PROPERTY**

Parcel A

That portion of the Southeast quarter of the Southeast quarter of Section 18, Township 35 North, Range 3 East, W.M., North of Slough, except roads.

Situated in the County of Skagit, State of Washington.

Parcel B

That portion of the Northeast quarter of the Northeast quarter, Section 19, Township 35 North, Range 3 East, W.M., lying Northerly of the Joe Leary Slough, except roads.

Situated in the County of Skagit, State of Washington.



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**EXHIBIT B**

**PAULUS PROPERTY**

PARCEL "D-2":

The Northeast  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of Section 18, Township 35 North, Range 3 East, W.M.,

EXCEPTING THEREFROM:

COMMENCING AT A POINT ON THE WEST LINE OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 18, WHICH IS 670 FEET NORTH OF THE SOUTHWEST CORNER THEREOF; THENCE NORTH TO THE NORTHWEST CORNER OF SAID NORTHEAST QUARTER OF THE SOUTHEAST QUARTER; THENCE EAST TO A POINT ON THE NORTH LINE OF SAID QUARTER WHICH IS 661.1 FEET WEST OF THE NORTHEAST CORNER THEREOF; THENCE SOUTH PARALLEL TO THE EAST LINE OF SAID NORTHEAST QUARTER OF THE SOUTHEAST QUARTER TO A POINT EAST OF THE POINT OF BEGINNING; THENCE WEST PARALLEL TO THE SOUTH LINE OF SAID NORTHEAST QUARTER OF THE SOUTHEAST QUARTER TO THE POINT OF BEGINNING,

AND EXCEPT those portions lying within the Bayview Edison County Road;  
AND EXCEPT that portion lying within the boundaries of the D'Arcy County Road as said roads are built on the ground and as conveyed to Skagit County by Deeds recorded under Auditor's File Nos. 340420, 340421, 394230 and 394231, records of Skagit County, Washington.

Situate in the County of Skagit, State of Washington.

PARCEL "F":

The West  $\frac{1}{2}$  of the Northwest  $\frac{1}{4}$ ; the West  $\frac{1}{2}$  of the Northeast  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$  and the East  $\frac{1}{2}$  of the Northwest  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$ , all in Section 17, Township 35 North, Range 3 East, W.M., EXCEPT the East 6 rods (99 feet) of the said East  $\frac{1}{2}$  of the Northwest  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$ , AND ALSO EXCEPT all ditch and dike rights of way; AND EXCEPT the D'Arcy Road running along the South line of the Northwest  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$  and as said road was conveyed to Skagit County by deeds recorded under Auditor's File Nos. 340422, 340423 and 340424, records of Skagit County, Washington.

Situate in the County of Skagit, State of Washington.



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PARCEL "G":

The West ½ of the Northwest ¼ of the Southwest ¼ and the West ½ of the Southeast ¼ of the Northwest ¼ and the East 6 rods (99 feet) of the Northwest ¼ of the Southwest ¼, all in Section 17, Township 35 North, Range 3 East, W.M., EXCEPT D'Arcy Road, as conveyed to Skagit County by deeds recorded under Auditor's File Nos. 340422, 340423 and 340424, AND ALSO EXCEPT ditch and dike rights of ways, if any.

Situate in the County of Skagit, State of Washington.

PARCEL "H":

The Southeast ¼ of the Southeast ¼ of Section 7, Township 35 North, Range 3 East, W.M., EXCEPT the West 25 feet thereof for County Road.

Situate in the County of Skagit, State of Washington.

PARCEL "I":

The West ½ of the Southwest ¼ of Section 8, Township 35 North, Range 3 East W.M..

Situate in the County of Skagit, State of Washington.



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