

This instrument prepared by and
after recording return to:

JOE W. BOYD
U.S. BANK N.A.
COLLATERAL DEPARTMENT
P. O. BOX 5308
PORTLAND OR 97228-5308
0608774075

CHICAGO/TITLE
C28593 ✓



200309240114
Skagit County Auditor

9/24/2003 Page 1 of 10 3:21PM



WASHINGTON DEED OF TRUST, SECURITY AGREEMENT
AND ASSIGNMENT OF RENTS AND LEASES
(INCLUDING FIXTURE FILING UNDER UNIFORM COMMERCIAL CODE)

Grantor(s): TED L. FLEMING and LINDA G. FLEMING

Grantees: U.S. BANK N.A., as Beneficiary
U.S. BANK TRUST COMPANY, N.A., as Trustee

Legal Description: PTN. NW SW SEC. 13, T34N, R3EWM

(Additional on page 2)

Assessor's Tax Parcel or Account Number: 340313-0-081-0004

Reference Number of documents assigned or released: NOT APPLICABLE

This Washington Deed of Trust, Security Agreement and Assignment of Rents and Leases (Including Fixture Filing Under Uniform Commercial Code) ("**Deed of Trust**") is made and entered into by the undersigned borrower(s), guarantor(s) and/or other obligor(s)/pledgor(s) (collectively the "**Grantor**") in favor of U.S. BANK TRUST COMPANY, N.A., having a mailing address at 555 SW OAK, PORTLAND, OR 97204 (the "**Trustee**"), for the benefit of U.S. BANK N.A. (the "**Beneficiary**"), as of the date set forth below.

ARTICLE I. CONVEYANCE/MORTGAGED PROPERTY

1.1 Grant of Deed of Trust/Security Interest. IN CONSIDERATION OF FIVE DOLLARS (\$5.00) cash in hand paid by the Trustee to the Grantor, and the financial accommodations from the Beneficiary to the Grantor as described below, the Grantor has bargained, sold, conveyed and confirmed, and hereby bargains, sells, conveys and confirms, unto Trustee, its successors and assigns, for the benefit of the Beneficiary, the Mortgaged Property (defined below) to secure all of the Grantor's Obligations (defined below) to the Beneficiary. The intent of the parties hereto is that the Mortgaged Property secures all Obligations of the Grantor to the Beneficiary, whether now or hereafter existing, between the Grantor and the Beneficiary or in favor of the Beneficiary, including, without limitation, the Note (as herein defined) and, except as otherwise specifically provided herein, any loan agreement, guaranty, mortgage, trust deed, lease or other agreement, document or instrument, whether or not enumerated herein, which specifically evidences or secures any of the indebtedness evidenced by the Note (together and individually, the "**Loan Documents**"). The parties further intend that this Deed of Trust shall operate as a security agreement with respect to those portions of the Mortgaged Property which are subject to Article 9 of the Uniform Commercial Code.

1.2 "Mortgaged Property" means all of the following, whether now owned or existing or hereafter acquired by the Grantor, wherever located: all the real estate described below or in **Exhibit A** attached hereto (the "**Land**"), together with all buildings, structures, standing timber, timber to be cut, fixtures, equipment, inventory and furnishings used in connection with the Land and improvements; all materials, contracts, drawings and personal property relating to any construction on the Land; and all other improvements now or hereafter constructed, affixed or located thereon (the "**Improvements**") (the Land and the Improvements collectively the "**Premises**"); TOGETHER with any and all easements, rights-of-way, licenses, privileges, and appurtenances thereto, and any and all leases or other agreements for the use or occupancy of the Premises, all the rents, issues, profits or any proceeds therefrom and all security deposits and any guaranty of a tenant's obligations thereunder (collectively the "**Rents**"); all awards as a result of

condemnation, eminent domain or other decrease in value of the Premises and all insurance and other proceeds of the Premises.

The Land is described as follows (or in Exhibit A hereto if the description does not appear below):

See Attached Exhibit A

1.3 "Obligations" means all loans by the Beneficiary to GAYLEE, INC.

_____ including those loans evidenced by a note or notes dated 09/08/03, in the initial principal amount(s) of \$157,360.00

and any extensions, renewals, restatements and modifications thereof and all principal, interest, fees and expenses relating thereto (the "Note"); and also means all the Grantor's debts, liabilities, obligations, covenants, warranties, and duties to the Beneficiary, whether now or hereafter existing or incurred, whether liquidated or unliquidated, whether absolute or contingent, which arise out of the Loan Documents, and principal, interest, fees, expenses and charges relating to any of the foregoing, including, without limitation, costs and expenses of collection and enforcement of this Deed of Trust, and attorneys' fees of both inside and outside counsel. The interest rate and maturity of such Obligations are as described in the documents creating the indebtedness secured hereby.

1.4 Homestead. The Premises are not the homestead of the Grantor. If so, the Grantor releases and waives all rights under and by virtue of the homestead exemption laws of the State of Washington. (are)(are not)

1.5 Deed of Trust Secures Commercial Loan. The Grantor and the Beneficiary hereby agree that the Obligations secured by this Deed of Trust constitute a commercial loan and are not made primarily for personal, family or household purposes.

1.6 Mortgaged Property Not Agricultural Property. The Grantor hereby represents and warrants that the Mortgaged Property is not used primarily for agricultural purposes.

1.7 Deed of Trust Does Not Secure Environmental Indemnities. Notwithstanding anything to the contrary set forth herein or in any other Loan Document, this Deed of Trust shall not secure the obligations of the Grantor or any other obligor under that certain Unsecured Real Estate Environmental Indemnity dated as of even date herewith made by the Grantor in favor of the Beneficiary (the "Environmental Indemnity Agreement") or the substantial equivalent of the obligations arising under the Environmental Indemnity Agreement. All of such obligations (and the substantial equivalents thereof) shall constitute the separate, unsecured, full recourse obligations of the Grantor and any other obligor identified therein and shall not be deemed to be evidenced by the Note or secured by this Deed of Trust.

1.8 Construction Loan. If checked here, this Deed of Trust secures an obligation incurred for the construction of an improvement on land, including the acquisition cost of the land.

ARTICLE II. WARRANTIES AND COVENANTS

In addition to all other warranties and covenants of the Grantor under the Loan Documents which are expressly incorporated herein as part of this Deed of Trust, including the covenants to pay and perform all Obligations, and while any part of the credit granted the Grantor under the Loan Documents is available or any Obligations of the Grantor to the Beneficiary are unpaid or outstanding, the Grantor continuously warrants to the Beneficiary and the Trustee and agrees as follows:

2.1 Warranty of Title/Possession. The Grantor warrants that it has sole and exclusive title to and possession of the Premises, excepting only the following "Permitted Encumbrances": restrictions and easements of record, and zoning ordinances (the terms of which are and will be complied with, and in the case of easements, are and will be kept free of encroachments), taxes and assessments not yet due and payable and those Permitted Encumbrances set forth on Exhibit B attached hereto (except that if no Exhibit B is attached, there will be no additional Permitted Encumbrances). The lien of this Deed of Trust, subject only to Permitted Encumbrances, is and will continue to be a



valid first and only lien upon all of the Mortgaged Property.

2.2 Maintenance; Waste; Alteration. The Grantor will maintain the Premises in good and tenantable condition and will restore or replace damaged or destroyed improvements with items of at least equal utility and value. The Grantor will not commit or permit waste to be committed on the Premises. The Grantor will not remove, demolish or materially alter any part of the Premises without the Beneficiary's prior written consent, except the Grantor may remove a fixture, provided the fixture is promptly replaced with another fixture of at least equal utility. The replacement fixture will be subject to the priority lien and security of this Deed of Trust.

2.3 Transfer and Liens. The Grantor will not, without the prior written consent of the Beneficiary, which may be withheld in the Beneficiary's sole and absolute discretion, either voluntarily or involuntarily (a) sell, assign, lease or transfer, or permit to be sold, assigned, leased or transferred, any part of the Premises, or any interest therein; or (b) pledge or otherwise encumber, create or permit to exist any mortgage, pledge, lien or claim for lien or encumbrance upon any part of the Premises or interest therein, except for the Permitted Encumbrances. Beneficiary has not consented and will not consent to any contract or to any work or to the furnishing of any materials which might be deemed to create a lien or liens superior to the lien of this Deed of Trust.

2.4 Escrow. After written request from the Beneficiary, the Grantor will pay to the Beneficiary sufficient funds at such time as the Beneficiary designates, to pay (a) the estimated annual real estate taxes and assessments on the Premises; and (b) all property or hazard insurance premiums when due. Interest will not be paid by the Beneficiary on any escrowed funds. Escrowed funds may be commingled with other funds of the Beneficiary. All escrowed funds are hereby pledged as additional security for the Obligations.

2.5 Taxes, Assessments and Charges. To the extent not paid to the Beneficiary under 2.4 above, the Grantor will pay before they become delinquent all taxes, assessments and other charges now or hereafter levied or assessed against the Premises, against the Beneficiary based upon this Deed of Trust or the Obligations secured by this Deed of Trust, or upon the Beneficiary's interest in the Premises, and deliver to the Beneficiary receipts showing timely payment.

2.6 Insurance. The Grantor will continually insure the Premises against such perils or hazards as the Beneficiary may require, in amounts, with acceptable co-insurance provisions, not less than the unpaid balance of the Obligations or the full replacement value of the Improvements, whichever is less. The policies will contain an agreement by each insurer that the policy will not be terminated or modified without at least thirty (30) days' prior written notice to the Beneficiary and will contain a mortgage clause acceptable to the Beneficiary; and the Grantor will take such other action as the Beneficiary may reasonably request to ensure that the Beneficiary will receive (subject to no other interests) the insurance proceeds from the Improvements. The Grantor hereby assigns all insurance proceeds to and irrevocably directs, while any Obligations remain unpaid, any insurer to pay to the Beneficiary the proceeds of all such insurance and any premium refund; and authorizes the Beneficiary to endorse the Grantor's name to effect the same, to make, adjust or settle, in the Grantor's name, any claim on any insurance policy relating to the Premises. The proceeds and refunds will be applied in such manner as the Beneficiary, in its sole and absolute discretion, determines to rebuilding of the Premises or to payment of the Obligations, whether or not then due and payable.

2.7 Condemnation. Any compensation received for the taking of the Premises, or any part thereof, by a condemnation proceeding (including payments in compromise of condemnation proceedings), and all compensation received as damages for injury to the Premises, or any part thereof, shall be applied in such manner as the Beneficiary, in its sole and absolute discretion, determines to rebuilding of the Premises or to payment of the Obligations, whether or not then due and payable.

2.8 Assignments. The Grantor will not assign, in whole or in part, without the Beneficiary's prior written consent, the rents, issues or profits arising from the Premises.

2.9 Right of Inspection. The Beneficiary may at all reasonable times enter and inspect the Premises.

2.10 Waivers by Grantor. To the greatest extent that such rights may then be lawfully waived, the Grantor hereby agrees for itself and any persons claiming under the Deed of Trust that it will waive and will not, at any time, insist upon or plead or in any manner whatsoever claim or take any benefit or advantage of (a) any exemption, stay, extension or moratorium law now or at any time hereafter in force; (b) any law now or hereafter in force providing for the valuation or appraisal of the Premises or any part thereof prior to any sale or sales thereof to be made pursuant to any provision herein contained or pursuant to the decree, judgment or order of any court of competent jurisdiction; (c) to the extent permitted by law, any law now or at any time hereafter made or enacted granting a right to redeem from foreclosure or any other rights of redemption in connection with foreclosure of, or exercise of any power of sale under, this Deed of Trust; (d) any statute of limitations now or at any time hereafter in force; or (e) any right to require marshalling of assets by the Beneficiary.



2.11 Assignment of Rents and Leases. The Grantor assigns and transfers to the Beneficiary, as additional security for the Obligations, all right, title and interest of the Grantor in and to all leases which now exist or hereafter may be executed by or on behalf of the Grantor covering the Premises and any extensions or renewals thereof, together with all Rents, it being intended that this is an absolute and present assignment of the Rents. Notwithstanding that this assignment constitutes a present assignment of leases and rents, the Grantor may collect the Rents and manage the Premises, but only if and so long as a default has not occurred. If a default occurs, the right of Grantor to collect the Rents and to manage the Premises shall thereupon automatically terminate and such right, together with other rights, powers and authorizations contained herein, shall belong exclusively to the Beneficiary. This assignment confers upon the Beneficiary a power coupled with an interest and cannot be revoked by the Grantor. Upon the occurrence of a default, the Beneficiary, at its option without notice and without seeking or obtaining the appointment of a receiver or taking actual possession of the Premises may (a) give notice to any tenant(s) that the tenant(s) should begin making payments under their lease agreement(s) directly to the Beneficiary or its designee; (b) commence a foreclosure action and file a motion for appointment of a receiver; or (c) give notice to the Grantor that the Grantor should collect all Rents arising from the Premises and remit them to the Beneficiary upon collection and that the Grantor should enforce the terms of the lease(s) to ensure prompt payment by tenant(s) under the lease(s). All Rents received by the Grantor shall be held in trust by the Grantor for the Beneficiary. All such payments received by the Beneficiary may be applied in any manner as the Beneficiary determines to payments required under this Deed of Trust, the Loan Documents and the Obligations. The Grantor agrees to hold each tenant harmless from actions relating to tenant's payment of Rents to the Beneficiary.

2.12 Fixture Filing. From the date of its recording, this Deed of Trust shall be effective as a financing statement filed as a fixture filing under the Uniform Commercial Code with respect to the Improvements and for this purpose the name and address of the debtor is the name and address of the Grantor as set forth in this Deed of Trust and the name and address of the secured party is the name and address of the Beneficiary as set forth in this Deed of Trust. The Mortgaged Property includes goods which are or may become so affixed to real property as to become fixtures. If any of the Mortgaged Property is of a nature such that a security interest therein can be perfected under the Uniform Commercial Code, this Deed of Trust shall also constitute the grant of a security interest to the Beneficiary and serve as a Security Agreement, and Grantor authorizes the filing of any financing statements and agrees to execute other instruments that may be required for the further specification, perfection or renewal of such security interest.

ARTICLE III. RIGHTS AND DUTIES OF THE BENEFICIARY

In addition to all other rights (including setoff) and duties of the Beneficiary under the Loan Documents which are expressly incorporated herein as a part of this Deed of Trust, the following provisions will also apply:

3.1 Beneficiary Authorized to Perform for Grantor. If the Grantor fails to perform any of the Grantor's duties or covenants set forth in this Deed of Trust, the Beneficiary may perform the duties or cause them to be performed, including, without limitation, signing the Grantor's name or paying any amount so required, and the cost, with interest at the default rate set forth in the Loan Documents, will immediately be due from the Grantor to the Beneficiary from the date of expenditure by the Beneficiary to date of payment by the Grantor, and will be one of the Obligations secured by this Deed of Trust. All acts by the Beneficiary are hereby ratified and approved, and the Beneficiary will not be liable for any acts of commission or omission, nor for any errors of judgment or mistakes of fact or law.

ARTICLE IV. DEFAULTS AND REMEDIES

The Beneficiary may enforce its rights and remedies under this Deed of Trust upon default. A default will occur if the Grantor fails to comply with the terms of any Loan Documents (including this Deed of Trust or any guaranty by the Grantor) or a demand for payment is made under a demand loan, or the Grantor defaults on any other mortgage affecting the Land, or if any other obligor fails to comply with the terms of any Loan Documents for which the Grantor has given the Beneficiary a guaranty or pledge, or if there shall be a default under the Unsecured Real Estate Environmental Indemnity of even date herewith by Borrower or any other Indemnitor identified therein. Upon the occurrence of a default, then subject only to any statutes conferring upon the Grantor the right to notice and an opportunity to cure, the Beneficiary may declare the Obligations to be immediately due and payable.

4.1 Remedies. In addition to the remedies for default set forth below and in the other Loan Documents, including acceleration, the Beneficiary upon default will have all other rights and remedies for default available by law or equity. Upon a default, Beneficiary may exercise the following remedies:

(a) Enforcement of Assignment of Rents and Leases. To the fullest extent permitted by applicable law, Beneficiary may:

(i) terminate the license granted to Grantor to collect the Rents (regardless of whether Beneficiary or Trustee



shall have entered into possession of the Mortgaged Property), collect and sue for the Rents in Beneficiary's own name, give receipts and releases therefor, and after deducting all expenses of collection, including reasonable attorneys' fees, apply the net proceeds thereof to any Obligations as Beneficiary may elect;

(ii) make, modify, enforce, cancel or accept surrender of any leases, evict tenants, adjust Rents, maintain, decorate, refurbish, repair, clean, and make space ready for renting, and otherwise do anything Beneficiary reasonably deems advisable in connection with the Mortgaged Property;

(iii) apply the Rents so collected to the operation and management of the Mortgaged Property, including the payment of reasonable management, brokerage and attorneys' fees, or to the Obligations; and

(iv) require Grantor to transfer and deliver possession of all security deposits and records thereof to Beneficiary.

(b) Power of Sale. Beneficiary may require the Trustee, and the Trustee is hereby authorized and empowered, to enter and take possession of the Premises and to sell all or part of the Mortgaged Property, at public auction, to the highest bidder for cash or such equivalent form of payment as may be permitted by applicable law, free from equity of redemption, and any statutory or common law right of redemption, homestead, dower, marital share, and all other exemptions, after giving notice of the time, place and terms of such sale and of the Mortgaged Property to be sold, by advertising the sale of the property in such manner and at such times as may be required by applicable law. The Trustee shall execute a conveyance to the purchaser conveying to the purchaser all the right, title and interest in the real and personal property sold at the trustee's sale which the Grantor had or had power to convey at the time of execution of this Deed of Trust and such right, title and interest therein as the Grantor may have thereafter acquired, and the Trustee shall deliver possession to the purchaser, which the Grantor warrants shall be given without obstruction, hindrance or delay. To the extent permitted by applicable law, the Trustee may sell all or any portion of the Mortgaged Property, together or in lots or parcels, and may execute and deliver to the purchaser or purchasers of such property a conveyance as described above. The Trustee shall receive the proceeds thereof and shall apply the same as follows: (a) first, the expense of the sale, including a reasonable charge by the Trustee and by his or her attorneys; (b) second, to the payment of the Obligations herein secured, in such order as Beneficiary shall elect, and to the extent permitted by applicable law any balance of said Obligations may be the subject of immediate suit; and (c) third, should there be any surplus, Trustee will deposit such surplus, if any, less the clerk's filing fee, with the clerk of the superior court of the county in which the sale took place. To the extent permitted by applicable law, the sale or sales by Trustee of less than the whole of the Mortgaged Property shall not exhaust the power of sale herein granted, and the Trustee is specifically empowered to make successive sales under such power until the whole of the Mortgaged Property shall be sold; and if the proceeds of such sale or sales of less than the whole of the Premises shall be less than the aggregate of the Obligations and the expenses thereof, this Deed of Trust and the lien, security interest and assignment hereof shall remain in full force and effect as to the unsold portion of the Mortgaged Property; provided, however, that Grantor shall never have any right to require the sale or sales of less than the whole of the Mortgaged Property, but Beneficiary shall have the right at its sole election, to request the Trustee to sell less than the whole of the Mortgaged Property. Beneficiary may bid and become the purchaser of all or any part of the Mortgaged Property at any such sale, and the amount of Beneficiary's successful bid may be credited on the Obligations.

(c) Judicial and Other Relief. Beneficiary or Trustee may proceed by a suit or suits in equity or at law, whether for the specific performance of any covenant or agreement herein contained or in aid of the execution of any power herein granted, or for any foreclosure hereunder or for the sale of the Mortgaged Property under the judgment or decree of any court or courts of competent jurisdiction.

(d) Entry on Premises; Tenancy at Will.

(i) Beneficiary may enter into and upon and take possession of all or any part of the Mortgaged Property, and may exclude Grantor, and all persons claiming under Grantor, and its agents or servants, wholly or partly therefrom; and, holding the same, Beneficiary may use, administer, manage, operate, and control the Mortgaged Property and may exercise all rights and powers of Grantor in the name, place and stead of Grantor, or otherwise, as the Beneficiary shall deem best; and in the exercise of any of the foregoing rights and powers Beneficiary shall not be liable to Grantor for any loss or damage thereby sustained unless due solely to the willful misconduct or gross negligence of Beneficiary.

(ii) In the event of a trustee's or other foreclosure sale hereunder and if at the time of such sale Grantor or any other party (other than a tenant under a Lease as to which the Beneficiary shall have expressly subordinated the lien of this Deed of Trust as hereinabove set out) occupies the portion of the Mortgaged Property so sold or any part thereof, such occupant shall on the twentieth day after the sale become the tenant of the purchaser at such sale, which tenancy, unless otherwise required by applicable law, shall be a tenancy from day to day, terminable at the will



of such purchaser, at a reasonable rental per day based upon the value of the portion of the Premises so occupied (but not less than any rental theretofore paid by such tenant, computed on a daily basis). An action of forcible detainer shall lie if any such tenant holds over a demand in writing for possession of such portion of the Premises.

(e) Receiver. Beneficiary may make application to a court of competent jurisdiction, as a matter of strict right and without notice to Grantor or regard to the adequacy of the Mortgaged Property for the repayment of the Obligations, for appointment of a receiver of the Mortgaged Property, and Grantor does hereby irrevocably consent to such appointment. Any such receiver shall have all necessary and proper powers and duties of receivers in similar cases, including the full power to rent, maintain and otherwise operate the Mortgaged Property upon such terms as may be approved by the court.

(f) Remedies Cumulative, Concurrent and Nonexclusive. If the Obligations are now or hereafter further secured by chattel mortgages, other deeds of trust, security agreements, pledges, contracts of guaranty, assignments of leases, or other security, then to the fullest extent permitted by applicable law, Beneficiary may, at its option, exhaust its remedies under any one or more of said instruments and this Deed of Trust, either concurrently or independently, and in such order as Beneficiary may determine. Beneficiary shall have all rights, remedies and recourses granted in the Loan Documents and available to it at law or equity (including, without limitation, those granted by the Uniform Commercial Code), and to the fullest extent permitted by applicable law, same (a) shall be cumulative, concurrent, and nonexclusive, (b) may be pursued separately, successively or concurrently against Grantor or others obligated for the Obligations, or any part thereof or against any one or more of them, or against the Mortgaged Property, at the sole discretion of Beneficiary, and (c) may be exercised as often as occasion therefor shall arise, it being agreed by Grantor that the exercise of or failure to exercise any of same shall in no event be construed as a waiver or release thereof or of any other right, remedy or recourse.

(g) Waiver by the Beneficiary. The Beneficiary may permit the Grantor to attempt to remedy any default without waiving its rights and remedies hereunder, and the Beneficiary may waive any default without waiving any other subsequent or prior default by the Grantor. Furthermore, delay on the part of the Beneficiary in exercising any right, power or privilege hereunder or at law will not operate as a waiver thereof, nor will any single or partial exercise of such right, power or privilege preclude other exercise thereof or the exercise of any other right, power or privilege. No waiver or suspension will be deemed to have occurred unless the Beneficiary has expressly agreed in writing specifying such waiver or suspension.

(h) Attorneys' Fees and Other Costs. Attorneys' fees and other costs incurred in connection with this Deed of Trust (including without limitation, the cost of any appraisal which may be obtained in conjunction with any foreclosure or deficiency judgment proceedings) may be recovered by the Beneficiary and included in any sale made hereunder or by judgment of foreclosure.

ARTICLE V. TRUSTEE

5.1 Action by Trustee. The Trustee named herein shall be clothed with full power to act when action hereunder shall be required, and to execute any conveyance of the Mortgaged Property. In the event that the substitution of the Trustee shall become necessary for any reason, the substitution of a trustee in the place of that named herein shall be sufficient. The term "Trustee" shall be construed to mean "Trustees" whenever the sense requires. The necessity of the Trustee herein named, or any successor in trust, making oath or giving bond, is expressly waived.

5.2 Employment of Agents. The Trustee, or any one acting in it's stead, shall have, in it's discretion, authority to employ all property agents and attorneys in the execution of this trust and/or in the conducting of any sale made pursuant to the terms hereof, and to pay for such services rendered out of the proceeds of the sale of the Mortgaged Property, should any be realized; and if no sale be made or if the proceeds of sale be insufficient to pay the same, then, to the fullest extent permitted by applicable law, Grantor hereby undertakes and agrees to pay the cost of such services rendered to said Trustee. Trustee may rely on any document believed by it in good faith to be genuine. All money received by the Trustee shall, until used or applied as herein provided, be held in trust, but need not be segregated (except to the extent required by law), and the Trustee shall not be liable for interest thereon.

5.3 Indemnification of Trustee. If the Trustee shall be made a party to or shall intervene in any action or proceeding affecting the Mortgaged Property or the title thereto, or the interest of the Trustee or Beneficiary under this Deed of Trust, the Trustee and Beneficiary shall be reimbursed by Grantor, immediately and without demand, for all reasonable costs, charges and attorneys' fees incurred by them or either of them in any such case, and the same shall be secured hereby as a further charge and lien upon the Mortgaged Property.

5.4 Successor Trustee. In the event of the death, refusal, or of inability for any cause, on the part of the Trustee named herein, or of any successor trustee, to act at any time when action under the forgoing powers and trust may be required, or for any other reason satisfactory to the Beneficiary, the Beneficiary is authorized, either in its own name or



through an attorney or attorneys in fact appointed for that purpose, by written instrument duly recorded, to name, substitute and appoint a successor or successors to execute this trust, such appointment to be evidenced by writing, duly acknowledged; and when such writing shall have been recorded in each county in which the Land is located, the substituted trustee named therein shall thereupon be vested with all the right and title, and clothed with all the power of the Trustee named herein and such like power of substitution shall continue so long as any part of the debt secured hereby remains unpaid. Any successor Trustee may be replaced, at the option of the Beneficiary, by the original Trustee or a successor Trustee previously replaced, each such substitution to be made as herein provided.

ARTICLE VI. MISCELLANEOUS

In addition to all other miscellaneous provisions under the Loan Documents which are expressly incorporated as a part of this Deed of Trust, the following provisions will also apply:

6.1 Term of Deed of Trust. This Deed of Trust shall continue in full force and effect until the Mortgaged Property has been reconveyed by the Trustee.

6.2 Time of the Essence. Time is of the essence with respect to payment of the Obligations, the performance of all covenants of the Grantor and the payment of taxes, assessments, and similar charges and insurance premiums.

6.3 Subrogation. The Beneficiary will be subrogated to the lien of any mortgage or other lien discharged, in whole or in part, by the proceeds of the Note or other advances by the Beneficiary, in which event any sums otherwise advanced by the Beneficiary shall be immediately due and payable, with interest at the default rate set forth in the Loan Documents from the date of advance by the Beneficiary to the date of payment by the Grantor, and will be one of the Obligations secured by this Deed of Trust.

6.4 Choice of Law. This Deed of Trust will be governed by the laws of the state in which the Mortgaged Property is located. For all other purposes, the choice of law specified in the Loan Documents will govern.

6.5 Severability. Invalidity or unenforceability of any provision of this Deed of Trust shall not affect the validity or enforceability of any other provision.

6.6 Entire Agreement. This Deed of Trust is intended by the Grantor and the Beneficiary as a final expression of this Deed of Trust and as a complete and exclusive statement of its terms, there being no conditions to the full effectiveness of this Deed of Trust. No parol evidence of any nature shall be used to supplement or modify any terms.

6.7 Joint Liability; Successors and Assigns. If there is more than one Grantor, the liability of the Grantors will be joint and several, and the reference to "Grantor" shall be deemed to refer to each Grantor and to all Grantors. The rights, options, powers and remedies granted in this Deed of Trust and the other Loan Documents shall extend to the Beneficiary and to its successors and assigns, shall be binding upon the Grantor and its successors and assigns, and shall be applicable hereto and to all renewals, amendments and/or extensions hereof.

6.8 Indemnification. Except for harm arising from the Beneficiary's or the Trustee's willful misconduct, the Grantor hereby indemnifies and agrees to defend and hold the Beneficiary and the Trustee harmless from any and all losses, costs, damages, claims and expenses (including, without limitation, attorneys' fees and expenses) of any kind suffered by or asserted against the Beneficiary or the Trustee relating to claims by third parties arising out of the financing provided under the Loan Documents or related to the Mortgaged Property excepting the Beneficiary's failure to perform its obligations under the Real Estate Environmental Indemnity Agreement or the exercise by the Beneficiary or the Trustee of any of their respective powers, rights and remedies under this Deed of Trust. To the fullest extent permitted by applicable law, this indemnification and hold harmless provision will survive the termination of the Loan Documents and the satisfaction of this Deed of Trust and Obligations due the Beneficiary.

6.9 Notices. Except as otherwise provided by applicable law, notice of any record shall be deemed delivered when the record has been (a) deposited in the United States Mail, postage pre-paid, (b) received by overnight delivery service, (c) received by telex, (d) received by telecopy, (e) received through the internet, or (f) when personally delivered.

6.10 Release of Rights of Dower, Homestead and Distributive Share. Each of the undersigned hereby relinquishes all rights of dower, homestead and distributive share in and to the Mortgaged Property and waives all rights of exemption as to any of the Mortgaged Property.

6.11 Copy. The Grantor hereby acknowledges the receipt of a copy of this Deed of Trust, together with a copy of each promissory note secured hereby, and all other documents executed by the Grantor in connection herewith.

6.12 Usury Savings Clause. Notwithstanding anything herein or in the Note to the contrary, no provision contained herein or in the Note which purports to obligate the Grantor to pay any amount of interest or any fees, costs or expenses which are in excess of the maximum permitted by applicable law, shall be effective to the extent that it



calls for the payment of any interest or other sums in excess of such maximum. All agreements between the Grantor and the Beneficiary, whether now existing or hereafter arising and whether written or oral, are hereby limited so that in no contingency, whether by reason of demand for payment of or acceleration of the maturity of any of the indebtedness secured hereby or otherwise, shall the interest contracted for, charged or received by the Beneficiary exceed the maximum amount permissible under applicable law. If, from any circumstance whatsoever, interest would otherwise be payable to the Beneficiary in excess of the maximum lawful amount, the interest payable to the Beneficiary shall be reduced to the maximum amount permitted under applicable law; and if from any circumstance the Beneficiary shall ever receive anything of value deemed interest by applicable law in excess of the maximum lawful amount, an amount equal to any excessive interest shall at the Beneficiary's option, be refunded to the Grantor or be applied to the reduction of the principal balance of the indebtedness secured hereby and not to the payment of interest or, if such excessive interest exceeds the unpaid balance of principal indebtedness secured hereby, such excess shall be refunded to the Grantor. This paragraph shall control all agreements between the Grantor and the Beneficiary.

6.13 Riders. The rider(s) attached hereto and recorded together with this Deed of Trust are hereby fully incorporated into this Deed of Trust. [Check applicable box(es)] Condominium Rider Second Deed of Trust Rider Construction Loan Rider Other(s) (Specify) _____

IN WITNESS WHEREOF, the undersigned has/have executed this Deed of Trust as of SEPTEMBER 8,
2003

(Individual Grantor)

Ted L. Fleming

Printed Name TED L. FLEMING

(Individual Grantor)

Linda G. Fleming

Printed Name LINDA G. FLEMING

N/A

Grantor Name (Organization)

a _____

By _____

Name and Title N/A

By _____

Name and Title N/A

(Grantor Address)

11196 FARM TO MARKET ROAD
MOUNT VERNON, WA 98273

(Beneficiary Address)

555 SW OAK
PORTLAND, OR 97204

[NOTARIZATION(S) ON NEXT PAGE]



200309240114
Skagit County Auditor

Acknowledgment in Individual Capacity

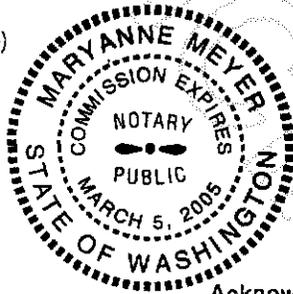
STATE OF Washington }
COUNTY OF Skagit } ss.

I certify that I know or have satisfactory evidence that TED L. FLEMING and LINDA G. FLEMING
[Name(s) of Person(s)]

is/are the person(s) who appeared before me, and said person(s) acknowledged that he/she/they signed this instrument and acknowledged it to be his/hers/their free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: September 18, 2003

(Seal or Stamp)



Maryanne Meyer
Printed Name: MARY ANNE MEYER
Title: Notary Public
My appointment expires: 3-5-05
Residing in Sedro-Woolley

Acknowledgment in Representative Capacity

STATE OF _____ }
COUNTY OF _____ } ss.

I certify that I know or have satisfactory evidence that _____
[Name(s) of Person(s)]

is/are the person(s) who appeared before me, and said person(s) acknowledged that he/she/they signed this instrument, on oath stated that he/she/they was/were authorized to execute the instrument and acknowledged it as the _____
(Type of authority, e.g., officer, trustee, etc)

of _____
(Name of party on behalf of whom instrument was executed)

to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____

(Seal or Stamp)

Printed Name: _____
Title: _____
My appointment expires: _____



200309240114
Skagit County Auditor

EXHIBIT A TO DEED OF TRUST

0608774075

(Legal Description)

Grantor: TED L. FLEMING and LINDA G. FLEMING

Trustee: U.S. BANK TRUST COMPANY, N.A.

Beneficiary: U.S. BANK N.A.

Legal Description of Land:

Real property is located at 17188 STATE ROUTE 536, MOUNT VERNON, WA 98273 and is more fully described as follows:

PARCEL A:

That portion of the North Half of the Northwest Quarter of the Southwest Quarter of Section 13, Township 34 North, Range 3 East of the Willamette Meridian, described as follows:

Beginning at a point on the West line of the Memorial Highway right-of-way where the same is intersected by a line running East from a point 329.7 feet South of the West Quarter corner of said Section:

Thence West, 41 feet;

Thence South, 100 feet;

Thence East of the West line of said Highway right-of-way;

Thence Northwesterly on said Highway right-of-way to point of beginning;

EXCEPT all roads rights-of-way.

PARCEL B:

A non-exclusive easement for ingress and egress upon and over the following described strip of land:

That portion of the North Half of the Northwest Quarter of the Southwest Quarter of Section 13, Township 34 North, Range 3 East of the Willamette Meridian, described as follows:

Beginning at a point on the Westerly line of the Memorial Highway, as conveyed by deed recorded July 27, 1931 under Auditor's File No. 244975, where same is intersected by a line running East from a point 329.7 feet South of the West Quarter corner of said Section;

Thence West 167 feet;

Thence South 100 feet to the true point of beginning of this description;

Thence South 20 feet;

Thence East to the West line of the Memorial Highway;

Thence Northwesterly along said Highway right of way to a point East of the point of beginning;

Thence West to the true point of beginning.

Situated in Skagit County, Washington



200309240114

Skagit County Auditor

9/24/2003 Page

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