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Skagit County Auditor

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## Return Address:

David Tall  
10900 NE 4<sup>th</sup> Street, Suite 850  
Bellevue, WA 98004

**Skagit County Auditor/Recorder's Indexing Form**

<b>DOCUMENT TITLE(S)</b> 1. Deed of Trust
<b>REFERENCE NUMBER(S) OF DOCUMENTS ASSIGNED OR RELEASED</b>
<b>GRANTOR(S)</b> 1. Armada Vancouver Company, a Washington corporation
<b>GRANTEE(S)</b> 1. Kelvin Properties, LLC, a Washington limited liability company.
<b>LEGAL DESCRIPTION (abbreviated)</b> 1. 120 Cascade Mall Drive, Burlington, WA 98233 Full legal description is on page 2 of document <u>Lot 5B SP Burl 3-91 6-34-4</u>
<b>ASSESSOR'S PROPERTY TAX PARCEL/ACCOUNT NUMBER</b> P23872

**DEED OF TRUST**

THIS DEED OF TRUST is made this 21<sup>st</sup> day of AUGUST 2004 between Armada Vancouver Company, a Washington corporation ("Grantor") which address is 1426 Harvard Ave. NE, # 26, Seattle, WA 98122 and Oseran Hahn Spring & Watts, P.S., as Trustee, which address is 10900 NE Fourth Street #850, Bellevue WA 98004 and Kelvin Properties, LLC ("Beneficiary"), which address is 4620 95<sup>th</sup> Avenue NE, Bellevue, WA 98004.

WITNESSETH: Grantor hereby conveys to Trustee, in Trust, with Power of Sale, the following described real property in Skagit County, Washington:

Lot 5B of City of Burlington Short Plat No. BURL-3-91, as approved April 21, 1992, and recorded April 27, 1992 in Volume 10 of Short Plats, page 77, under Auditor's File No. 9204270026, records of Skagit County, Washington; being a portion of Lot 5 of the Cascade Mall Binding Site Plan, recorded in Volume 8 of Short Plats, pages 170 through 180, being a portion of the East ½ of the Southeast ¼, Section 6, Township 34 North, Range 4 East, W.M.

TOGETHER WITH an easement for ingress and egress, as granted by easement recorded July 27, 1989, under Auditor's File No. 8907270006, records of Skagit County, Washington.

TOGETHER WITH an easement for storm drainage, as granted by easement recorded July 31, 1989, under Auditor's File No. 8907210036, records of Skagit County.

Which real property is not used principally for agricultural or farming purposes, together with all the tenements, hereditaments, and appurtenances now or hereafter thereunto belonging or in any wise appertaining thereof, and the rents, issues and profits thereof.

This Deed of Trust is for the purpose of securing payment of sums due to Beneficiary, which sums presently amount to \$706,331.94, from Longley Properties Investors, L.L.C. ("Longley") and James W. Lagerquist ("Lagerquist") as signators to and in accordance with that Settlement and Release Agreement dated April 16, 2004 ("Settlement Agreement") as well as from Lagerquist as guarantor of that guaranty dated May 5, 2000 payable to Grantee, as well as any and all renewals, modifications, and extensions thereof and all such further sums as may be advanced or loaned by Beneficiary to Guarantor or its successors or assigns, together with interest thereon at 7% per annum.

Grantor covenants and agrees as follows:

1. To keep the property in good condition and repair; to permit no waste thereof; to complete any building, structure or improvement being built or about to be built thereon; to restore promptly any building, structure or improvement thereon which may be damaged or destroyed; and to comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting the property.
2. To pay before delinquent all lawful taxes and assessments upon the property; to keep the property free and clear of all other charges, liens or encumbrances impairing the security of this Deed of Trust.
3. To keep all buildings now or hereafter erected on the property described herein continuously insured against loss by fire or other hazards in an amount not less than the total debt secured by this Deed of Trust. All policies shall have loss payable first to the Beneficiary, as its interest may appear, and then to the Grantor. The amount collected under any insurance policy may be applied upon any indebtedness hereby secured in such order as the Beneficiary shall determine. Such application by the Beneficiary shall not cause discontinuance of any proceedings to foreclose this Deed



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of Trust. In the event of foreclosure, all rights of the Grantor in insurance policies then in force shall pass to the purchaser at the foreclosure sale.

4. To defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee, and to pay all costs and expenses, including cost of title search and attorney's fees in a reasonable amount, in any such action or proceeding, and in any suit brought by Beneficiary to foreclose this Deed of Trust.

5. To pay all costs, fees and expenses in connection with this Deed of Trust, excluding costs related to drafting its terms, including the reasonable expenses of the Trustee incurred in enforcing the obligation secured hereby and Trustee's and attorney's fees reasonably incurred, as provided by statute.

6. Should Grantor fail to pay when due any taxes, assessments, insurance premiums, liens, encumbrances or other charges against the property hereinabove described, Beneficiary may pay the same, and the amount so paid, with interest at the rate set forth in the Note secured hereby, shall be added to and become a part of the debt secured in this Deed of Trust.

IT IS MUTUALLY AGREED THAT:

1. In the event any portion of the property is taken or damaged in an eminent domain proceeding, the entire amount of the award or such portion as may be necessary to fully satisfy the obligation secured hereby, shall be paid to Beneficiary to be applied to said obligation.

2. By accepting payment of any sum secured hereby after its due date, Beneficiary does not waive its right to require prompt payment when due of all other sums so secured or to declare default for failure to so pay.

3. Beneficiary agrees and acknowledges that its interest in this deed of trust is subordinate to two deeds of trust on the Property held by (1) AEA Bank and (2) Tom Abel. Grantee further agrees not to execute and/or foreclose on the Property identified in this Deed of Trust unless all payments to be made to Grantee identified in the Settlement Agreement are not made to Grantee by the date identified therein.

4. Upon default by Grantor in the payment of any indebtedness secured hereby or in the performance of any agreement contained herein, all sums secured hereby shall immediately become due and payable at the option of the Beneficiary. In such event and upon written request of Beneficiary, Trustee shall sell the trust property, in accordance with the Deed of Trust Act of the state of Washington, at public auction to the highest bidder. Any person except Trustee, its agents or assigns may bid at Trustee's sale. Trustee shall apply the proceeds of the sale as follows: (a) to the expense of the sale, including a reasonable Trustee's fee and attorney's fee; (b) to the obligation secured by this Deed of Trust; (c) the surplus, if any, shall be distributed to the persons entitled thereto.

5. Trustee shall deliver to the purchaser at the sale its deed, without warranty, which shall convey to the purchaser the interest in the property which Grantor had or had the power to convey at the time of its execution of this Deed of Trust, and such as it may have acquired thereafter. Trustee's deed shall recite the facts showing that the sale was conducted in compliance with all the requirements of law and of this Deed of Trust, which recital shall be prima facie evidence of such compliance and conclusive evidence thereof in favor of bona fide purchaser and encumbrances for value.

6. The power of sale conferred by this Deed of Trust and by the Deed of Trust Act of the state of Washington is not an exclusive remedy; Beneficiary may cause this Deed of Trust to be foreclosed as a mortgage.

7. In the event of the death, incapacity, disability or resignation of Trustee, Beneficiary may appoint in writing a successor trustee, and upon recording of such appointment in the mortgage records of the county in which this Deed of Trust is recorded, the successor trustee shall be vested with all powers of the original trustee. The Trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of any action or proceeding in which Grantors, Trustee or Beneficiary shall be a party unless such action or proceeding is brought by the Trustee.

8. This Deed of Trust applies to, inures to the benefit of, and is binding not only on the parties hereto, but on their heirs, devisees, legatees, administrators, executors and assigns. The term "beneficiary" shall mean the holder and owner of the Note secured hereby, whether or not named as Beneficiary herein.

9. If all or any portion of the property described in this Deed of Trust is sold or transferred by Grantor without Beneficiary's prior written consent, which is not to be unreasonably withheld, then the whole sum of both principal and interest of the Promissory Note secured by this Deed of Trust shall be immediately due and payable without further notice or demand at Beneficiary's option.

10. This is a third priority deed of trust, junior only to the first deed of trust in favor of AEA and a second deed of trust in favor of Tom Abel.

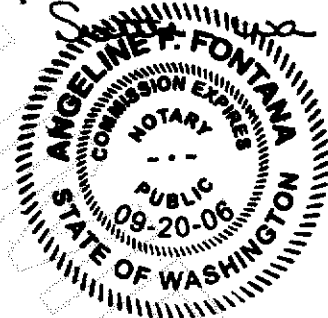
GRANTOR:  
ARMADA VANCOUVER COMPANY

By: JAMES W. Lagerquist  
Its: President

GRANTEE:  
KELVIN PROPERTIES, LLC

By: [Signature]  
Its:

Angeline J. Fontana  
August 27, 2004



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GRANTEE:

KELVIN PROPERTIES, L.L.C.,  
a Washington limited liability company

By: \_\_\_\_\_

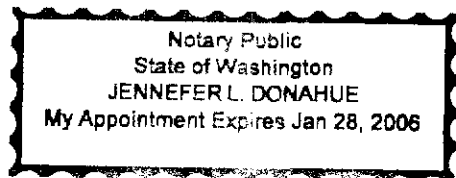
Terry Moss  
Its: Manager

STATE OF WASHINGTON )  
COUNTY OF KING ) §

I certify that I know or have satisfactory evidence that TERRY MOSS is the person who acknowledged that he signed this instrument and on oath stated that he was authorized to execute the instrument and acknowledged it to be his free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: September 1, 2004.

(SEAL/STAMP)



Print Name: Jennefer Donahue  
NOTARY PUBLIC in and for the state of  
Washington residing in Bellevue  
My appointment expires 1-28-06



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