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Skagit County Auditor

1/28/2010 Page 1 of 22 3:23PM

When Recorded, Return to:

HOMESTREET BANK
2000 Two Union Square
601 Union Street
Seattle, WA 98101-2326
Attn: Residential Construction



GUARDIAN NORTHWEST TITLE CO.

79026

DEED OF TRUST, ASSIGNMENT OF RENTS AND LEASES,
SECURITY AGREEMENT, AND FIXTURE FILING **1ST AM**

Grantor(s):	GRANDVIEW NORTH, LLC	4319983 22/270
<input type="checkbox"/> Additional on page		
Grantee(s):	Trustee: FIRST AMERICAN TITLE INSURANCE COMPANY	
	Beneficiary: HOMESTREET BANK	
<input type="checkbox"/> Additional on page		
Legal Description (abbreviated):	LOTS 12, 13, 14, "PLAT OF BRICKYARD MEADOWS - DIV. II"	
<input checked="" type="checkbox"/> Complete legal on	EXHIBIT A.	
Assessor's Tax Parcel Identification No(s):	48490000120000; 48490000130000; 48490000140000	
Reference Nos. of Documents Released or Assigned:	N/A	

NOTICE TO RECORDER: FOR PURPOSES OF ARTICLE 9 OF THE UNIFORM COMMERCIAL CODE (RCW 62A.9), THIS DEED OF TRUST CONSTITUTES A SECURITY AGREEMENT AND FIXTURE FILING WITH GRANTOR BEING THE DEBTOR AND BENEFICIARY BEING THE SECURED PARTY.

THIS DEED OF TRUST, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS, ASSIGNMENT OF PERMITS, CONTRACTS, AND PLANS, AND FIXTURE FILING (the "*Deed of Trust*") dated this 27 day of January, 2010, is made by and among GRANDVIEW NORTH, LLC, a Washington limited liability company (the "*Grantor*"), whose address is PO Box 159, Arlington, WA 98223; FIRST AMERICAN TITLE INSURANCE COMPANY (the "*Trustee*"), whose address is 818 Stewart Street, Suite 800, Seattle, WA 98101; and HOMESTREET BANK, a Washington state chartered savings bank, (the "*Beneficiary*" or "*Lender*"), whose address is 2000 Two Union Square, 601 Union Street, Seattle, Washington 98101-2326.

Grantor hereby irrevocably GRANTS, TRANSFERS, BARGAINS, SELLS, CONVEYS and ASSIGNS to Trustee, IN TRUST, WITH POWER OF SALE, and with right of entry and possession as

provided herein, all of Grantor's present and future estate, right, title, claim, and interest, either in law or in equity, in and to the Property (defined in Section 1 below) TO SECURE TO BENEFICIARY THE FOLLOWING (collectively, the "**Secured Obligations**"):

A. Payment of all obligations at any time owing under that certain Adjustable Rate Promissory Workout Payments Note in the principal amount of One Million Dollars (\$1,000,000), together with interest thereon at a variable rate as expressly set forth therein, executed concurrently herewith by Martha Lake Town Center LLC, a Washington limited liability company, Grandview North, LLC, a Washington limited liability company, and Scott and Kamie Wammack, husband and wife (collectively, "**Borrower**") in favor of Lender, (the "**Workout Payments Note**"). The Workout Payments Note evidences certain of Borrower's continuing payment obligations to Lender pursuant to that certain Workout Settlement Agreement executed concurrently herewith between Borrower and Lender (the "**Workout Agreement**"). This Deed of Trust shall also secure any modifications, extensions or renewals of the Workout Payments Note, whether or not any such modification, extension or renewal is evidenced by a new or additional promissory note or notes;

B. Payment and/or performance of each and every other obligation under the Workout Payments Note; this Deed of Trust; the Workout Agreement; the subordinate deed of trust granted by Borrower's affiliate, Trail West, LLC, a Washington limited liability company, to Lender concurrently herewith against the so-called Trail West Property, as legally described therein, as additional security for the Secured Obligations; and any and all amendments, modifications, and supplements thereto (collectively, the "**Workout Documents**"), the provisions of which are incorporated herein by this reference;

C. Payment of all sums advanced to protect the security of this Deed of Trust, together with interest thereon as herein provided;

D. Payment and performance of all other sums and obligations that are or that may become owing under the Workout Documents, this Deed of Trust, or any UCC financing statements executed in connection herewith;

E. Payment of all obligations of Grantor to Beneficiary arising because of waste or the wrongful retention of rents, insurance proceeds, or condemnation awards in connection with the Property; and

NOTWITHSTANDING THE FOREGOING, THE MAXIMUM AMOUNT THAT BENEFICIARY MAY RECOVER FROM THE PROCEEDS OF THE PROPERTY IN CONNECTION WITH ITS SECURITY INTEREST UNDER THIS DEED OF TRUST (THE "**REALIZATION CAP**"), WHETHER FROM SURPLUS PROCEEDS FROM FORECLOSURE OF ANY SENIOR LIEN OR DEED OF TRUST, FROM FORECLOSURE OF THIS DEED OF TRUST, OR OTHERWISE, AND THE MAXIMUM AMOUNT THAT BENEFICIARY MAY CREDIT BID IN ANY FORECLOSURE HEREOF, SHALL BE TWO HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$250,000), PLUS ALL ATTORNEYS' FEES, TRUSTEE'S FEES, AND OTHER COSTS INCURRED BY BENEFICIARY IN ANY FORECLOSURE OR BANKRUPTCY INVOLVING THE GRANTOR OR THE PROPERTY. BENEFICIARY SHALL NOT BE REQUIRED TO RECONVEY ALL OR A PORTION OF ITS SECURITY UNDER THIS DEED OF TRUST UNTIL IT HAS RECEIVED PROCEEDS OF THE PROPERTY IN AN AMOUNT EQUAL TO THE REALIZATION CAP OR THE SECURED OBLIGATIONS HAVE BEEN PAID IN FULL.



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GRANTOR HEREBY REPRESENTS, WARRANTS, COVENANTS AND AGREES AS FOLLOWS:

1. PROPERTY.

1.1. Property. As used herein, the term "**Property**" includes all of the following:

1.1.1. The real property described on EXHIBIT A hereto and all interest therein, and all accessions thereto, subject to all matters of record as of the date of this Deed of Trust, and all rights to the alleys, streets and roads adjoining or abutting the real property (the "**Land**").

1.1.2. All buildings, improvements and tenements now or hereafter located on the Land, or appurtenant thereto, subject to all matters of record as of the date of this Deed of Trust, and Grantor's interest in all fixtures and materials (and renewals, substitutions and replacements thereof) that are now or hereafter affixed to, placed on or used in connection with the Land (collectively the "**Improvements**").

1.1.3. Grantor's interest in all articles of property now or hereafter attached to, or used or adapted for use in the ownership, development, operation or maintenance of the Land and/or Improvements (whether such items be leased, owned absolutely, or subject to any title-retaining or security instrument), including without limitation all heating, air-conditioning, ventilating, refrigerating, plumbing, generating, power, lighting, laundry, maintenance, incinerating, lifting, fire prevention and extinguishing, security and access control, cooking, gas, electric and communication fixtures, equipment and apparatus; all engines, motors, conduits, pipes, pumps, tanks, ducts, compressors, boilers, water heaters and furnaces; floor covering, paneling, and draperies; all shrubbery and plants; all of which items shall be deemed part of the real property and not severable wholly or in part without material injury to the freehold;

1.1.4. Subject to all matters of record as of the date of this Deed of Trust, Grantor's interest in all easements, all access, air and development rights, all minerals and oil, gas and other hydrocarbon substances, all royalties, all water, water rights and water stock, and all other rights, hereditaments, privileges, permits, licenses, franchises and appurtenances now or hereafter belonging or in any way appertaining to the Land;

1.1.5. Subject to all matters of record as of the date of this Deed of Trust, Grantor's interest in all of the rents, issues, profits and income of the Property, and all right, title and interest of Grantor in and to all present and future leases and other agreements for the occupancy or use of all or any part of the Land, and all right, title and interest of Grantor thereunder, including without limitation all cash or security deposits, advance rentals and deposits or payments of similar nature, all accounts relating in any way to the Property, and all guarantees of tenants' or occupants' performance under any and all leases or agreements of occupancy or use of all or part of the Land; SUBJECT, HOWEVER, to the assignment to Beneficiary of rents and other property herein contained;

1.1.6. Grantor's interest in all intangible personal property used or useful in connection with the ownership, development, operation or maintenance of the Land or Improvements (including without limitation, permits, licenses, franchises, the right to use any trade names, contract rights, accounts receivable, leases and rental agreements, property management agreements, escrow accounts, insurance policies, tenant and other deposits, instruments, documents of title, general intangibles, business records and claims and causes of action pertaining to the Land or Improvements);

1.1.7. Grantor's interest in all materials, supplies and other goods (collectively "**Materials**") now owned or hereafter acquired, wherever located, whether in the possession of Grantor, a warehouseman, bailee, or any other person, purchased for use in the construction or furnishing of the



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Improvements on the Land, together with any documents covering such Materials, all contract rights and general intangibles relating thereto, and proceeds thereof;

1.1.8. Grantor's interest in all architectural contracts, engineering contracts, site plans, plats, architectural plans, specifications, working drawings, surveys, engineering reports, test borings, market surveys and other work products relating to the Property;

1.1.9. All of Grantor's rights under any construction contract relating to Improvements and all amendments thereto, together with all of the right, title and interest of Grantor in, to and under any and all performance, payment, completion or other surety bonds now or hereafter issued by any surety in connection with or related to the aforesaid construction contract;

1.1.10. All reserve and other accounts established by Grantor with Beneficiary;

1.1.11. Any and all other property or rights of any kind or nature further identified herein or in any UCC financing statement filed in connection herewith; and

1.1.12. Any and all interest and estate that Grantor or Grantor's assigns may hereafter acquire in any of the above Property and all the rents, issues, proceeds, products, and profits of such Property;

all of which, including additions thereto, shall be deemed to be and remain a part of the Land and all of the foregoing, together with said Land, are hereafter referred to as the "**Property**".

1.2. Warranty of Title. Grantor represents and warrants that: (i) Grantor is lawfully seized of the estate hereby conveyed and has the right to grant, convey and assign the Property; (ii) the Property is free from liens, encumbrances, exceptions and other charges of any kind whatsoever other than those appearing in the final extended coverage lender's policy of title insurance for the Property accepted by Beneficiary at closing or otherwise approved by Beneficiary in writing (the "**Permitted Exceptions**"); (iii) Grantor has not made any contract or arrangement of any kind the performance of which by the other party thereto would give rise to a lien or claim of lien on the Property, except for work being done in the ordinary course of managing or operating the Property, and no other liens or encumbrances, whether superior or inferior to this Deed of Trust, will be created or suffered to be created by Grantor during the life of this Deed of Trust without the prior written consent of Beneficiary; (iv) no default on the part of Grantor or any other person exists under any of the Permitted Exceptions and, as applicable, all are in full force and effect and in good standing and without modification except as disclosed in writing to Beneficiary; and (v) Grantor will forever warrant and defend the Property unto Beneficiary against all claims and demands of any other person, subject only to the non-delinquent installments of taxes and assessments and Permitted Exceptions. As to any mortgages, deeds of trust, real estate contracts or other liens that are Permitted Exceptions ("**Lien(s)**"), Grantor covenants and warrants that: (i) Complete and current copies of the agreements relating to those Liens have been furnished to Beneficiary and none have been or will be modified in any way without Beneficiary's prior written consent; (ii) Grantor is not in default with respect to those Liens, except as set forth in the Workout Documents, and the outstanding balance of any Lien, as set forth in Grantor's application for credit or other document delivered to Beneficiary, is accurate; (iii) Grantor will fully comply with all agreements relating to the Liens and will deliver a copy of any notice of default or non-performance related thereto to Beneficiary; (iv) Beneficiary has the right at any time and from time to time to contact the holder of any Lien to confirm the status of or obtain other information related to the Lien, and Grantor will, from time to time, at the request of Beneficiary, request of the lienholder a certificate stating that any agreements pertaining to a Lien are in full force and effect, are unmodified, that no notice of default thereunder has been served on the Grantor and specifying defaults thereunder, if any.

1.3. Non Agricultural Use. Grantor states, represents, and warrants that the Property is not used principally or primarily for agricultural or farming purposes.



1.4. Hazardous Substances and Building Laws.

1.4.1. Definitions

1.4.1.1 "Building Laws" means all federal, state, and local laws, statutes, regulations, ordinances and requirements, now or hereafter in effect, applicable to the ownership or operation of the Property, including all building, zoning, planning, subdivision, fire, traffic, safety, health, labor, air quality, wetlands, shoreline and flood plain laws, statutes, regulations, ordinances and requirements, and all applicable requirements of the Fair Housing Act of 1968, and the Americans with Disabilities Act of 1990, and all government and private covenants, conditions and restrictions applicable to the Property, as now in effect or hereafter amended.

1.4.1.2 "Environmental Laws" means all federal, state, and local laws, statutes, codes, regulations, ordinances, rules, requirements, judgments, orders, injunctions, awards, decrees, covenants, conditions, restrictions and standards, now or hereafter in effect, relating to the use, release, handling, storage, transportation, clean-up, or other disposal of Hazardous Substances, or relating to the water quality, air quality, soils quality, and other environmental quality of real property and improvements constructed upon real property, as such laws and ordinances may be amended from time to time, including, without limitation: (i) the Federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*), (ii) the Federal Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6901 *et seq.*), and (iii) the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. § 9601 *et seq.*), all as now or hereafter amended.

1.4.1.3 "Hazardous Substances" means any waste, pollutants, contaminants, petroleum or petroleum product, asbestos, tremolite, anthophyllite or actinolite, polychlorinated biphenyls, or other chemical, substance, or material that: (i) after release into the environment and upon exposure, ingestion, inhalation, or assimilation, either directly from the environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavior abnormalities, cancer and/or genetic abnormalities, or (ii) is now or at any time in the future becomes regulated under, or is defined, classified or designated as hazardous, toxic, radioactive or dangerous, or other comparable term or category under any Environmental Laws.

1.4.1.4 "Other Property" means any property that becomes contaminated with Hazardous Substances as a result of the construction, development, operation or other activities on, over, under or about, or the contamination of, the Property.

1.4.2. Representations and Warranties. Grantor represents and warrants that to the best of its knowledge after due inquiry and inspections, and except as disclosed in any written environmental report concerning the Property provided by Grantor to Beneficiary, Grantor has no knowledge of: (a) the presence of any Hazardous Substances on the Property, (b) any spills, releases, discharges or disposal of Hazardous Substances that have occurred or are presently occurring on or onto, under or about the Property or any Other Property, or (c) the presence, use, storage and/or disposal of Hazardous Substances, except as generally and customarily used and in the quantity generally and customarily used in the ordinary course of operating and maintaining properties such as the Property, all of which Grantor covenants have and will be used, stored and disposed of in accordance with commercially reasonable practices and all applicable Environmental Laws.

1.4.3. Compliance with Laws. Grantor shall cause the Property to be continuously in compliance with all Environmental Laws and Building Laws. Hazardous Substances will not be generated, processed, stored, transported, handled or disposed of under, over, about or on the Property by any person or entity, except in accordance with all applicable laws. Grantor has no knowledge of (a) any failure by any person or entity to comply with all currently applicable Environmental Laws with respect to the generation, recycling, reuse, sale, storage, handling, transport and/or disposal of Hazardous Substances on or



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from the Property; or (b) any failure of the Property to comply with all currently applicable Building Laws. All buildings, structures and other improvements on the Property are constructed in accordance with and fully comply with all applicable Building Laws and are either located outside of any 100-year flood plain or will be continuously covered by adequate flood insurance. The Property is the only real property required to operate the Property and all improvements thereon in compliance with Building Laws, except as otherwise disclosed to Beneficiary in writing. All certificates of occupancy and other governmental permits and approvals necessary for the occupancy of the Property have been obtained.

1.4.4. No Release or Waiver. Grantor has not and will not release or waive the liability of any previous owner, lessee or operator of the Property, or any other person or entity potentially responsible under (a) applicable Environmental Laws for the presence or removal of Hazardous Substances on or from the Property or (b) applicable Building Laws. Grantor has made no promises of indemnification regarding Hazardous Substances or Buildings Laws to any person or entity other than Beneficiary.

1.4.5. Notification; Cleanup. Grantor will immediately notify Beneficiary if Grantor receives notice or otherwise becomes aware of (a) any Hazardous Substances or other environmental problem or liability with respect to the Property or Other Property, (b) any lien, action or notice resulting from the violation of any Environmental Laws or any Building Laws, or (c) the Property being in violation of any applicable Building Law or Environmental Law. At its own cost, Grantor will: (i) take all actions that are necessary or desirable to clean up any Hazardous Substances affecting the Property, including removal, treatment, containment or any other remedial action required by governmental authorities or as otherwise required to restore the Property to a safe condition in compliance with applicable laws and regulations, including Environmental Laws, (ii) take all actions that are necessary or desirable to modify the Property and all Improvements so as to achieve compliance with applicable laws and regulations, including Building Laws, and/or (iii) attempt, through appropriate legal or administrative proceedings, to obtain a stay of enforcement proceedings if Grantor believes in good faith that Grantor is not required by law to cure such Hazardous Substances condition or to make alterations to comply with Building Laws. Any notice sent to Beneficiary pursuant to this paragraph will describe with particularity any actual, potential or alleged violation of Building Laws or Environmental Laws, and shall contain Grantor's plan or recommendations for correcting the violations.

1.4.6. Remedies on Default. A default by Grantor under any of the covenants, representations, or warranties set forth in this Section 1.4 shall, upon the expiration of any applicable cure period, constitute an Event of Default as defined in Section 4.1 below entitling Beneficiary to exercise all of the rights and remedies available to Beneficiary upon the occurrence of an Event of Default hereunder; provided, however, that such Event of Default shall not form the basis for any claim for damages or indemnification by Beneficiary against Grantor except to the extent of sums actually advanced by Beneficiary as a consequence of such default, pursuant to the terms of this Deed of Trust and prior to any transfer of the Property to Beneficiary pursuant to foreclosure proceedings or a deed in lieu thereof, in order to maintain and protect Beneficiary's security hereunder.

1.4.7. Not Substantial Equivalent. None of the covenants, representations, or other obligations of Grantor set forth in this Section 1.4 are intended by the parties to be the substantial equivalent of obligations of arising under the Indemnity Agreements. To the extent any such representations, covenants, or obligations may nonetheless subsequently be determined to be the substantial equivalent of obligations arising under the Indemnity Agreements, without in any way limiting or affecting Beneficiary's other rights and remedies hereunder, this Deed of Trust will cease to secure any such provisions and a default under any such provision shall not constitute a basis for non-judicial foreclosure hereunder.

1.5. Payment of Taxes, Utilities, Liens and Charges. Grantor will pay when due all taxes and assessments (including without limitation, governmental and non-governmental levies or assessments) levied, assessed or charged against or with respect to the Property or this Deed of Trust. Upon request, Grantor shall promptly furnish to Beneficiary all notices of amounts due under this subsection and all



receipts evidencing such payments. Grantor will pay when due all utility charges and assessments for services furnished to the Property. Grantor will pay when due the claims of all persons supplying labor or materials to or in connection with the Property. Without waiving the restrictions against liens and encumbrances set forth herein, Grantor will promptly discharge any lien or other charge, whether superior or inferior to this Deed of Trust, claimed against the Property, other than the Permitted Exceptions; *provided that* Grantor shall have the right to contest the amount or validity in whole or in part of any lien or other charge against the Property by appropriate proceedings conducted in good faith and with due diligence, in which event Grantor, upon prior written notice to Beneficiary, may postpone or defer payment of such encumbrance, lien or charge if, and so long as, (i) such proceedings shall operate to prevent the collection of the encumbrance, lien or charge; (ii) neither the Property nor any part thereof will by reason of such postponement or deferment be in danger of being forfeited or lost; (iii) Grantor, before the date such encumbrance, lien or charge becomes delinquent, gives such reasonable security as may be requested by Beneficiary to ensure payment of such encumbrance, lien or charge and prevent any forfeiture or loss of the Property or any part thereof; (iv) Grantor immediately commences to contest such lien, encumbrance, or charge, applies to court for any necessary show cause, and continuously pursues the contest in good faith and with due diligence; (v) Grantor pays any judgment rendered for the lien claimant or any third party within ten (10) days after entry of judgment; and (vi) no default exists under the Workout Documents. If at any time there shall be assessed or imposed on Beneficiary any tax (except income tax), assessment or other charge measured by or based on any portion of the indebtedness secured by this Deed of Trust, Grantor shall pay such amount to Beneficiary on demand; provided that if any such payment would be unlawful, Beneficiary may declare the entire principal balance of the indebtedness and all accrued interest and all other sums due under the Workout Documents immediately due and payable;

1.6. Maintenance of Property; Alteration; Right of Entry. Grantor (i) will maintain and preserve the Property in good condition and repair, and will not commit or permit any waste, impairment or deterioration of the Property, ordinary wear and tear excepted, (ii) will not abandon the Property, (iii) will restore or repair promptly and in a good and workmanlike manner all or any part of the Property to the equivalent of its original condition, subject to ordinary wear and tear, or such other condition as Beneficiary may approve in writing, in the event of any damage, injury or loss thereto, whether or not insurance proceeds are available to cover the costs of such restoration or repair, and (iv) will operate and maintain the Property in a commercially reasonable manner. No building or other improvement on the Land will be structurally altered, erected or expanded, removed or demolished, in whole or in part, without Beneficiary's prior written consent, nor will any fixture or chattel covered by this Deed of Trust be removed at any time without like consent unless actually replaced by an article of equal suitability, owned by Grantor free and clear of any lien or security interest except such as may be approved in writing by Beneficiary. Beneficiary is hereby authorized to enter the Property, including the interior of any structures, at reasonable times and after reasonable notice, for the purpose of inspecting the Property, ascertaining compliance with this Deed of Trust and the accuracy of all representations and warranties in this Deed of Trust or for the purpose of performing any of the acts it is authorized to perform hereunder.

1.7. Parking. Grantor will take all actions as are necessary to provide and maintain parking facilities in kind, size and location to comply with (i) all leases by Grantor as lessor of any portion of the Property and (ii) all governmental zoning and other regulations.

1.8. Use of Property. Grantor will comply with all laws, ordinances, regulations and requirements of any governmental body and all other covenants, conditions and restrictions applicable to the Property, and pay all fees and charges in connection therewith. Unless required by applicable law or unless Beneficiary has otherwise agreed in writing, Grantor will not allow changes in the use for which all or any part of the Property was intended at the time this Deed of Trust was executed. Grantor will not initiate or acquiesce in a change in the zoning classification of the Property without Beneficiary's prior written consent.

1.9. Insurance Coverage Required. Grantor will keep the following insurance coverages in effect with respect to the Property:



1.9.1. Insurance against loss by fire and the hazards now or hereafter covered by the standard "*extended coverage*" form of insurance, in an amount equal at all times to the full insurable value of the Improvements then located on the Property, which during any construction of the Improvements that occurs during the term of this Deed of Trust shall be an "*all risk/builder's risk*" special form policy. All such insurance coverage shall contain a "*replacement cost endorsement*" without deduction for depreciation and loss of rents and/or business interruption insurance coverage, a fluctuating value endorsement with a waiver of the co-insurance clause (or an agreed amount endorsement with an inflation guard endorsement), and such other endorsements as Beneficiary may reasonably request. The policy shall not contain a co-insurance clause, unless permitted by Beneficiary.

1.9.2. Comprehensive public liability insurance against claims for bodily injury, death or property damage occurring on, in or about the Property.

1.9.3. Flood insurance, if the Property is located in a designated flood hazard area.

1.9.4. Insurance against such similar or other hazards, casualties, liabilities and contingencies, as Beneficiary may from time to time reasonably require.

Each insurance policy will be issued by a company, in a form, and with terms and amounts acceptable to Beneficiary. Each hazard insurance policy will include a mortgagee endorsement in favor of and in form and substance acceptable to Beneficiary. All policies will provide for at least thirty (30) days' written notice to Beneficiary prior to the effective date of any cancellation or material amendment (including reduction in the scope or limits of coverage). Grantor shall furnish to Beneficiary the original of each required insurance policy, or a certified copy thereof or certificate of insurance setting forth the coverage, the limits of liability, the carrier, the policy number and the expiration date. As security for the Secured Obligations, Grantor hereby assigns to Beneficiary all required insurance policies, together with all proceeds thereof, rights thereto and all unearned premiums returnable upon cancellation. Grantor shall promptly furnish to Beneficiary all renewal notices relating to insurance policies. Grantor will pay all premiums on insurance policies directly to the carrier. At least thirty (30) days prior to the expiration date of each such policy, Grantor shall furnish to Beneficiary a renewal policy in a form acceptable to Beneficiary, together with evidence that the renewal premium has been paid.

1.10. Insurance/Condemnation Proceeds.

1.10.1. Insurance Proceeds. In the event of any loss, Grantor will give prompt written notice thereof to the insurance carrier and to Beneficiary. Grantor hereby authorizes Beneficiary as Grantor's attorney-in-fact to make proof of loss, to adjust and compromise any claim, to commence, appear in and prosecute, in Beneficiary's or Grantor's name, any action relating to any claim and to collect and receive insurance proceeds; provided, however, that Beneficiary shall have no obligation to do so. Beneficiary shall apply any insurance proceeds received by it hereunder first to the payment of the costs and expenses incurred in the collection of the proceeds and then, in its absolute discretion and without regard to the adequacy of its security, to: (i) the payment of any prior indebtedness secured hereby, whether then due and payable or not, (ii) the payment of the Secured Obligations, whether then due and payable or not, in an amount not to exceed the Realization Cap; or (iii) the reimbursement of Grantor, under Beneficiary's prescribed disbursement control procedures, for the cost of restoration or repair of the Property. If Beneficiary does not receive proceeds of an amount equal to the Realization Cap, Beneficiary may, at its option, condition the reimbursement on Beneficiary's approval of the plans and specifications of the reconstruction; contractor's cost estimates, architect's certificates, waivers of liens, sworn statements of mechanics and materialmen, and such other evidence of costs, percentage completion of construction, application of payments and satisfaction of liens as Beneficiary may reasonably require. Except to the extent that insurance proceeds are applied to payment of the indebtedness secured hereby, nothing herein contained shall be deemed to excuse Grantor from restoring, repairing or maintaining the Property regardless of whether or not there are insurance proceeds



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available or whether any such proceeds are sufficient in amount. If the Property is foreclosed and sold or if Beneficiary otherwise acquires title to the Property, Beneficiary shall have all of the right, title and interest of Grantor in and to any insurance policies and unearned premiums thereon and in and to the proceeds resulting from any damage to the Property occurring prior to such sale or acquisition.

1.10.2. Condemnation Proceeds. Grantor will promptly notify Beneficiary of any action or proceeding relating to any condemnation or other taking (including without limitation any change in the grade of the Property), whether direct or indirect, of the Property or part thereof or interest therein, and Grantor will appear in and prosecute any such action or proceeding unless otherwise directed by Beneficiary in writing. Grantor authorizes Beneficiary, at Beneficiary's option, as attorney-in-fact for Grantor, to commence, appear in and prosecute, in Beneficiary's or Grantor's name, any action or proceeding relating to any such condemnation or other taking, and to settle or compromise any claim in connection with such condemnation or other taking; provided, however, that Beneficiary shall have no obligation to do so. All awards, payments, damages (direct, consequential and otherwise), claims, and proceeds thereof, in connection with any such condemnation, are hereby assigned to Beneficiary, and all proceeds of any such awards, payments, damages or claims shall be paid to Beneficiary. Beneficiary shall apply such proceeds in the manner and upon the terms and conditions set forth in Section 1.10.1 relating to the application of insurance proceeds.

1.11. Advances to Protect Beneficiary's Security. Grantor will give notice to Beneficiary of and will, at its expense, appear in and defend any action or proceeding that may affect the Property or title thereof or the interests or rights of Beneficiary or Trustee. If any such action or proceeding is commenced or if Beneficiary or Trustee is made a party to any such action or proceeding by reason of this Deed of Trust, or if Grantor fails to perform any obligation on its part to be performed hereunder, then Beneficiary and/or Trustee, each in its own discretion, may make any appearances, disburse any reasonable sums, make any entries upon the Property and take any actions as may be necessary or desirable to protect or enforce the security of this Deed of Trust, to remedy Grantor's failure to perform (without, however, waiving any default by Grantor) or otherwise to protect Beneficiary's or Trustee's interests. Grantor agrees to pay all loss, damage, costs and expenses, including reasonable attorneys' fees, of Beneficiary and Trustee thus incurred. This paragraph shall not be construed to require Beneficiary or Trustee to incur any expenses, make any appearances or take any actions. All amounts disbursed by Beneficiary and Trustee pursuant to this section, or any other provision of this Deed of Trust, plus interest thereon, shall be additional indebtedness of Grantor secured by this Deed of Trust and not limited by the Realization Cap. All such amounts shall accrue interest from the date of disbursement at the highest interest rate in effect under any of the Workout Documents from time to time.

1.12. Books and Records; Financial Statements. Grantor will keep and maintain at all times at Grantor's address stated above, or such other place as Beneficiary may approve in writing, complete and accurate books of accounts and records adequate to reflect correctly the results of the operation of the Property, and copies of all written contracts, leases and other instruments that affect the Property (including without limitation all bills, invoices and contracts for electrical service, gas service, water and sewer service, water management, telephone and management services). All such items shall be subject to examination, inspection and copying at any reasonable time, upon reasonable prior notice, by Beneficiary. Within twenty (20) days of a written request from Beneficiary, Grantor shall provide to Beneficiary a balance sheet for Grantor, Grantor's most recent federal income tax return, a cash flow statement and an operating statement for the Property, a statement of income and expenses of the Property, and a statement of changes in financial position with respect to the Property for the prior year, each in reasonable detail and certified by Grantor, and if Beneficiary shall require, by an independent certified public accountant. At the same time, Grantor shall also furnish Beneficiary with a rent roll for the Property, certified by Grantor, showing the name of each tenant, the space occupied, the lease expiration date, the monthly rent, the date to which rent has been paid and any deposit Grantor is holding, together with a current operating statement for the Property.



2. **UNIFORM COMMERCIAL CODE SECURITY AGREEMENT.**

2.1. **Grant to Beneficiary.** This Deed of Trust is a security agreement pursuant to the Uniform Commercial Code with respect to: (a) any of the Property that, under applicable law, is not real property or effectively made part of the real property by the provisions of this Deed of Trust; and (b) any and all other property now or hereafter described on any Uniform Commercial Code Financing Statement naming Grantor as Debtor and Beneficiary as Secured Party in any way connected with the use and enjoyment of the Property (any and all such other property constituting "**Property**" for purposes of this Deed of Trust); and Grantor hereby grants Beneficiary a security interest in all property described in clauses (a) and (b) above, together with all rents, issues, proceeds, products, and profits thereof, as security for the Secured Obligations.

2.2. **Intent to Regard as Real Property.** Grantor and Beneficiary agree that neither the foregoing grant of a security interest nor the filing of any such financing statement shall ever be construed as in any way derogating from the parties' intent that everything used in or adapted for use on the Property or that is described or reflected in this Deed of Trust is and at all times shall be regarded for all purposes as part of the real property.

2.3. **Rights and Remedies of Beneficiary.** With respect to all Property subject to the foregoing security interest, Beneficiary has all rights and remedies (i) of a secured party under the Uniform Commercial Code, (ii) provided herein, including without limitation the right to cause such Property to be sold by Trustee under the power of sale granted by this Deed of Trust, and (iii) provided by law. In exercising its remedies, Beneficiary may proceed against the items of real property and any items of personal property separately or together and in any order whatsoever, without in any way affecting the availability of Beneficiary's remedies. Upon demand by Beneficiary following default hereunder, Grantor will assemble any items of personal property and make them available to Beneficiary at the Property (a place which is hereby deemed to be reasonably convenient to both parties). Beneficiary shall give Grantor at least five (5) days' prior written notice of the time and place of any public sale or other disposition of such Property or of the time or after which any private sale or any other intended disposition is to be made. Any person permitted by law to purchase at any such sale may do so. Such Property may be sold at any one or more public or private sales as permitted by applicable law. All expenses incurred in realizing on such Property shall be borne by Grantor.

2.4. **Perfection of Security Interest.** Grantor authorizes Beneficiary to file one or more financing statements and such other documents as Beneficiary may from time to time require to perfect and continue the perfection of Beneficiary's security interest in any part of the Property or the Rents and Leases. Grantor shall pay all fees and costs that Beneficiary may incur in filing such documents in public offices and in obtaining such record searches as Beneficiary may reasonably require. Grantor shall cooperate with Beneficiary in obtaining control of any portion of the Property that consists of Deposit Accounts, Investment Property, Letter-of-Credit rights, and Electronic Chattel Paper, as such terms are defined in the Uniform Commercial Code as enacted in the state in which the Property is located. If any financing statement or other document is filed in the records normally pertaining to personal property, that filing shall not be construed as in any way derogating from or impairing the declaration and the stated intention of the parties hereto that the Property and all components thereof are, to the maximum extent possible, real property or otherwise impair the rights or obligations of the parties under this Deed of Trust.

2.5. **Fixture Filing.** It is intended that the recording of this Deed of Trust shall be effective as a "**fixture filing**" with respect to any and all fixtures included within the Property and all goods and personal property that are now or may hereafter become affixed to the Land.

3. **ASSIGNMENT OF RENTS AND LEASES; LEASES OF PROPERTY; APPOINTMENT OF RECEIVER; BENEFICIARY IN POSSESSION.**

3.1. **Assignment of Rents and Leases.** As part of the consideration for the contemporaneous modification of the Secured Obligations, and not as additional security therefor, Grantor

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hereby absolutely and unconditionally, and irrevocably assigns and transfers to Beneficiary all right, title and interest of Grantor in and to: (i) any and all present and future leases and other agreements for the occupancy or use of all or any part of the Property, and any and all extensions, renewals and replacements thereof (collectively, "**Leases**") (including without limitation the leases listed on any schedule of leases that may have been provided by Grantor to Beneficiary contemporaneously with Grantor's execution of this Deed of Trust); (ii) all cash or security deposits, advance rentals and deposits of a similar nature under the Leases and any other security of any kind for performance by tenants under the Leases; (iii) any and all guarantees of payment and/or performance of tenants or occupants under any Leases; and (iv) all rents, issues, profits and revenues (collectively, "**Rents**") now due or which may become due or to which Grantor may now or shall hereafter become entitled or may demand or claim in connection with the Leases or the Property, including without limitation minimum, additional, percentage and deficiency rents and liquidated damages.

3.2. Collection of Rents. Prior to any Event of Default (as defined in Section 4.1 of this Deed of Trust), Grantor shall have a revocable license to, and will, collect and receive all Rents from the Property as trustee for the benefit of Beneficiary, and Grantor shall apply the Rents so collected first to the payment of taxes, assessments and other charges on the Property prior to delinquency, second to the cost of insurance, maintenance and repairs required by the terms of this Deed of Trust, third to the costs of discharging any obligation or liability of Grantor under the Leases, and fourth to the indebtedness secured hereby that is currently due and payable, with the balance, if any, so long as no such Event of Default has occurred, to the account of Grantor. Upon delivery of written notice by Beneficiary to Grantor stating that an Event of Default exists and that Beneficiary exercises its rights to the Rents, and without the necessity of Beneficiary entering upon and taking control of the Property in person, by agent or by a court-appointed receiver, Beneficiary shall immediately be entitled to possession of all Rents from the Property as the same become due and payable (including without limitation Rents then due and unpaid), and all such Rents shall immediately upon delivery of such notice be held by Grantor as trustee for the benefit of Beneficiary only. Grantor hereby agrees to direct and hereby expressly authorizes each tenant or occupant of the Property to pay all Rents to Beneficiary, upon Beneficiary's written demand therefor in accordance with the preceding sentence and without any liability on the part of said tenant or occupant to inquire further as to the existence of a default by Grantor. Grantor hereby authorizes Beneficiary, as Grantor's attorney-in-fact, to make such direction to tenants and occupants upon Grantor's failure to do so as required herein. Payments made to Beneficiary by tenants or occupants shall, as to such tenants and occupants, be in discharge of the payors' obligations to Grantor. Beneficiary may exercise, in Beneficiary's or Grantor's name, all rights and remedies available to Grantor with respect to collection of Rents. Nothing herein contained shall be construed as obligating Beneficiary to perform any of Grantor's obligations under any of the Leases.

3.3. Grantor's Representations and Warranties. Grantor hereby represents and warrants to Beneficiary that Grantor is the sole owner of the lessor's interest in such Leases or Rents and, except as to all matters of record as of the date of this Deed of Trust, has not executed and will not execute any other assignment of said Leases or Rents; that Grantor has not performed and will not perform any acts and has not executed and will not execute any instrument that would prevent Beneficiary from exercising its rights under this Section, that Grantor has duly and punctually performed all the terms, covenants, conditions and warranties of the Leases on Grantor's part to be kept, observed and performed, and that at the time of execution of this Deed of Trust there has been no anticipation or prepayment of any of the Rents of the Property for more than two (2) months prior to the due dates thereof and no Rents have otherwise been waived, released, discounted, set off, or otherwise discharged or compromised. Grantor further represents and warrants to Beneficiary that, except as previously disclosed to Beneficiary in writing, all Leases identified in the certified rent roll provided Beneficiary by Grantor concurrently herewith (the "**Rent Roll**") are currently in existence and in good standing and there is no default thereunder, whether by Grantor or lessee, nor to Grantor's knowledge any event or condition that, with notice or the passage of time or both, would be a default thereunder.

3.4. Covenants.

3.4.1. Enforcement of Leases. Grantor will (i) comply with and observe Grantor's obligations as landlord under all Leases and will do all that is necessary to preserve all Leases in force and free from any right of counterclaim, defense or set off, (ii) enforce the performance of each and every obligation, term, covenant, condition and agreement in the Leases by the tenants to be performed, (iii) notify Beneficiary of the occurrence of any default under any Leases for non-residential use, and (iv) 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 Grantor or the tenants thereunder. Without Beneficiary's written consent, Grantor will not collect or accept payment of any Rents from the Property more than two (2) months prior to the due dates thereof; will not surrender or terminate any Lease for non-residential use now existing or hereafter entered into; and will not request or consent to the subordination of any Lease to any lien subordinate to this Deed of Trust.

3.4.2. Modification of Leases. Without the prior written consent of Beneficiary, Grantor shall not: (i) waive, excuse, condone, discount, set off, compromise, or in any manner release or discharge the tenant under any Leases for non-residential use from any obligations, covenants, conditions and agreements by 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; (ii) cancel, terminate, consent to or permit any surrender of any non-residential Leases; or (iii) renew or extend the term of the Leases for any non-residential use for a lesser rental unless an option therefor was originally so reserved by the tenant of the Leases for a fixed and definite rental. All Leases or modifications thereof entered into subsequent to the date hereof (including without limitation any assignments of leases and subleases by tenants of the Property) must be in a form acceptable to Beneficiary and tenant must agree to execute such evidences of subordination and attornment as Beneficiary may from time to time request. Grantor shall provide complete copies of all new Leases for non-residential use or modifications to existing non-residential Leases to Beneficiary within ten (10) working days of Grantor's execution of any such Lease or modification. Grantor shall, promptly upon Beneficiary's written request therefor, deliver to Beneficiary an executed copy of each residential Lease then in effect.

3.5. Beneficiary in Possession; Appointment of Receiver. Upon any Event of Default hereunder, Beneficiary may, in person, by agent or by a court-appointed receiver, regardless of the adequacy of Beneficiary's security, enter upon and take and maintain full control of the Property in order to perform all acts necessary and appropriate for the operation and maintenance thereof in the same manner and to the same extent as Grantor could do the same, including without limitation the execution, enforcement, cancellation and modification of Leases, the collection of all Rents of the Property, the removal and eviction of tenants and other occupants, the making of alterations and repairs to the Property, and the execution and termination of contracts providing for management or maintenance of the Property, all on such terms as are deemed best by Beneficiary to protect the security of this Deed of Trust. From and after the occurrence of any default, if any owner of the Property shall occupy the Property or part thereof, such owner shall pay to Beneficiary in advance on the first day of each month a reasonable rental for the space so occupied, and upon failure to do so Beneficiary shall be entitled to remove such owner from the Property by any appropriate action or proceedings. Following an Event of Default hereunder, Beneficiary shall be entitled (regardless of the adequacy of Beneficiary's security) to the appointment of a receiver, Grantor hereby consenting to the appointment of such receiver without bond. Grantor acknowledges and agrees that the provisions of RCW 7.60.020(6), which authorize appointment of a receiver as necessary to secure ample justice to the parties, apply to Grantor's consent herein to the appointment of a receiver. Grantor expressly acknowledges that enforcement of Beneficiary's right to appointment of a receiver hereunder is necessary to secure ample justice to the parties. Grantor hereby further agrees to the extent permitted by law that the pendency of any action brought by Beneficiary for the appointment of a receiver shall not prevent the foreclosure of this Deed of Trust pursuant to RCW Chapter 61.24 (or any laws in replacement thereof), and Grantor hereby expressly waives the effect, if any, of RCW 61.24.030(4) (or any similar statute) in this regard. The receiver shall have, in addition to all the rights and powers customarily given to and exercised by such receivers, all the rights and powers granted to



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Beneficiary by this Section. Beneficiary or the receiver shall be entitled to receive a reasonable fee for so managing the Property.

3.6. Application of Rents. All Rents collected subsequent to delivery of written notice by Beneficiary to Grantor of an Event of Default hereunder shall be applied first to the costs, if any, of taking control of and managing the Property and collecting the Rents, including without limitation reasonable attorneys' fees, receiver's fees, premiums on receiver's bonds, reasonable costs of maintenance and repairs to the Property, premiums on insurance policies, taxes, assessments and other charges on the Property, and the costs of discharging any obligation or liability of Grantor under the Leases, and then to the indebtedness secured hereby in an amount not to exceed the Realization Cap. Beneficiary or the receiver shall be liable to account only for those Rents actually received.

3.7. Deficiencies. To the extent, if any, that the costs of taking control of and managing the Property, collecting the Rents, and discharging obligations and liabilities of Grantor under the Leases exceed the Rents of the Property, the excess sums expended for such purposes shall be indebtedness secured by this Deed of Trust. Such excess sums shall be payable to Beneficiary on demand and shall bear interest from the date of disbursement at the lesser of the highest default interest rate applicable under any of the Workout Documents, or the maximum rate that may be collected from Grantor therefor under applicable law.

3.8. Beneficiary Not Mortgagee in Possession. Nothing herein shall constitute Beneficiary a "*mortgagee in possession*" prior to its actual entry upon and taking possession of the Property, and entry upon and taking possession by a receiver shall not constitute possession by Beneficiary.

3.9. Rejection of Leases. Grantor further covenants and agrees that, if the tenants under any of the Leases is the subject of any proceeding under the United States Bankruptcy Code or any other federal, state or local statute that provides for the possible termination or rejection of the Leases assigned hereby, and if the Leases are so rejected, (a) no damage settlement affecting total Rent payments in excess of \$5,000 shall be made without the prior written consent of Beneficiary, (b) that any check in payment of damages for rejection of any such Leases in excess of \$5,000 will be made payable both to the Grantor and Beneficiary, and (c) Grantor hereby assigns any such payment in excess of \$5,000 to Beneficiary and upon request of Beneficiary will duly endorse to the order of Beneficiary any such check, the proceeds of which will be applied to any portion of the indebtedness secured by this Deed of Trust as Beneficiary may elect.

3.10. Indemnification. Grantor hereby agrees to indemnify and hold Beneficiary harmless from any and all liability, loss, damage or expense that Beneficiary may incur under or by reason of or in defense of any and all claims and demands whatsoever that may be asserted against Beneficiary arising out of the Leases, including, but not limited to, any claims by any tenants of credit for rental paid to Grantor more than two (2) months in advance of the due date thereof and not delivered to Beneficiary. Should Beneficiary incur any such liability, loss, damage, or expense, the amount thereof (including reasonable attorneys' fees), together with interest thereon at the highest default interest rate applicable under any of the Workout Documents, shall be payable by Grantor immediately without demand, and shall be secured hereby and by the Workout Documents.

3.11. Records. Grantor hereby covenants and agrees to make, execute and deliver to Beneficiary 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, that Beneficiary may deem to be advisable for carrying out the purposes and intent of this Assignment.

3.12. Enforcement. Beneficiary may enforce this assignment without first resorting to or exhausting any security or collateral for the indebtedness. The fact that the Leases or the leasehold estates created thereby may be held directly or indirectly by or for the account of any person or entity that shall have an interest in the fee or leasehold (as the case may be) estate of the Property, the operation of the law, or any other event shall not merge any Leases or the leasehold estates created thereby with the fee or leasehold (as the



case may be) estate of such lessee in the Property as long as the any indebtedness secured hereby shall remain unpaid, unless Beneficiary shall consent in writing to such merger.

4. EVENTS OF DEFAULT.

4.1. Definition of Default: The occurrence of any one or more of the following shall constitute a an *"Event of Default"* hereunder:

4.1.1. Failure to make any scheduled payment of principal or interest, under the this Deed of Trust or any of the other Workout Documents within ten (10) days of the date it is due.

4.1.2. Failure to make any payment required under any of the Workout Documents other than those identified in the preceding paragraph or to perform any other covenant, agreement or obligation under this Deed of Trust, or any of the other Workout Documents, or any breach of warranty thereunder, and the failure to cure such default within the stated cure period (or if none is stated, then failure to cure within thirty (30) days after Beneficiary's delivery of written demand to Grantor, or if such cure cannot in Beneficiary's opinion be completed within such thirty (30) day period, failure by Grantor to commence the required cure within such thirty (30) day period, and thereafter to continue to cure within ninety (90) days after Beneficiary's delivery of such written demand).

4.1.3. Grantor or any of the entities or individuals comprising Borrowers files a petition in bankruptcy or for a reorganization or any other form of debtor relief; or such a petition is filed against Grantor or any of the entities or individuals comprising Borrower, or a decree or order is entered for the appointment of a trustee, receiver or liquidator for Grantor or any of the entities or individuals comprising Borrower or the property of any such entity; or Grantor or any of the entities or individuals comprising Borrower commence any proceeding for dissolution or liquidation; or any such proceeding is commenced against Grantor or any of the entities or individuals comprising Borrower, and any of the same are not dismissed within forty-five (45) days after the date of commencement.

4.1.4. Grantor or any of the entities or individuals comprising Borrower makes an assignment for the benefit of its creditors, or admits in writing its inability to pay its debts generally as they become due of Grantor or any such entity, or there is an attachment, execution or other judicial seizure of any portion of the assets and such seizure is not discharged with ten (10) days.

4.1.5. Any representation or disclosure made to Beneficiary by Grantor or any of the entities or individuals comprising Borrower or any guarantor in connection with the Secured Obligations proves to be materially false or misleading when made, whether or not that representation or disclosure is expressly set forth in the Workout Documents.

4.2. Acceleration upon Default; Additional Remedies. Upon any Event of Default, Beneficiary may, at its option and without notice to or demand upon Grantor, exercise any one or more of the following actions: declare all amounts secured by this Deed of Trust immediately due and payable; bring a court action to enforce the provisions of this Deed of Trust or any of the other Workout Documents; foreclose this Deed of Trust as a mortgage; cause any or all of the Property to be sold under the power of sale granted by this Deed of Trust in any manner permitted by applicable law; exercise Beneficiary's rights with respect to the Leases and the Rents; and/or exercise any or all of the other rights and remedies under this Deed of Trust and the other Workout Documents or available under law or in equity. To the extent permitted by law, every right and remedy provided in this Deed of Trust or afforded by law or equity or any other agreement between Beneficiary and Grantor may be exercised concurrently, independently or successively, in any order whatsoever. Beneficiary may exercise any of its rights and remedies at its option without regard to the adequacy of its security.



4.3. Exercise of Power of Sale. For any sale under the power of sale granted by this Deed of Trust, Beneficiary or Trustee shall record and give all notices required by law and then, upon the expiration of such time as is required by law, Trustee may sell the Property upon any terms and conditions specified by Beneficiary and permitted by applicable law. Trustee may postpone any sale by public announcement at the time and place noticed for the sale. If the Property includes several lots or parcels, Beneficiary in its discretion may designate their order of sale or may elect to sell all of them as an entirety. The Property, real, personal and mixed, may be sold in one parcel. To the extent any of the Property sold by the Trustee is personal property, then Trustee shall be acting as the agent of the Beneficiary in selling such Property. Any person permitted by law to do so may purchase at any sale. Upon any sale, Trustee will execute and deliver to the purchaser or purchasers a deed or deeds conveying the Property sold, but without any covenant or warranty, express or implied, and the recitals in the Trustee's deed showing that the sale was conducted in compliance with all the requirements of law shall be prima facie evidence of such compliance and conclusive evidence thereof in favor of bona fide purchasers and encumbrances for value.

4.4. Application of Sale Proceeds. The proceeds of any sale under this Deed of Trust shall be applied in the following manner: FIRST: Payment of the costs and expenses of the sale, including without limitation Trustee's fees, legal fees and disbursements, title charges and transfer taxes, and payment of all expenses, liabilities and advances of Trustee, together with interest on all advances made by Trustee from date of disbursement at the highest applicable interest rate under any of the Workout Documents from time to time; SECOND: Payment of all reasonable sums expended by Beneficiary under the terms of this Deed of Trust and not yet repaid, together with interest on such sums from date of disbursement at the highest applicable interest rate under any of the Workout Documents from time to time; THIRD: Payment of all other indebtedness secured by this Deed of Trust in any order that the Beneficiary chooses, in an amount not to exceed the Realization Cap; FOURTH: The remainder, if any, to the person or persons legally entitled to it.

4.5. Deficiency. To the extent permitted by law, including, without limitation, RCW 61.24.100, Beneficiary shall have the right to seek and obtain a deficiency judgment following the completion of a judicial foreclosure or trustee's sale of all or a portion of the security for the obligations secured by this Deed of Trust.

4.6. Waiver of Order of Sale and Marshaling. Beneficiary shall have the right to determine the order in which any or all portions of the secured indebtedness are satisfied from the proceeds realized upon the exercise of any remedies provided herein. Grantor, Borrower, any party who consents to this Deed of Trust, and any party who now or hereafter acquires a security interest in the Property and who has actual or constructive notice hereof, hereby waives any and all right to require marshaling of assets in connection with the exercise of any of the remedies permitted by applicable law or provided herein, or to direct the order in which any of the Property will be sold in the event of any sale under this Deed of Trust.

4.7. Non-Waiver of Defaults. The entering upon and taking possession of the Property, the collection of Rents or the proceeds of fire and other insurance policies or compensation or awards for any taking or damage of the Property, and the application or release thereof as herein provided, shall not cure or waive any Event of Default or notice of default hereunder or invalidate any act done pursuant to such notice.

4.8. Expenses During Redemption Period. If this Deed of Trust is foreclosed as a mortgage and the Property sold at a foreclosure sale, the purchaser may, during any redemption period allowed, make such repairs or alterations on the Property as may be reasonably necessary for the proper operation, care, preservation, protection and insuring thereof. Any sums so paid together with interest thereon from the time of such expenditure at the highest default rate of interest stated in any of the Workout Documents shall be added to and become a part of the amount required to be paid for redemption from such sale.

4.9. Foreclosure Subject to Tenancies. Beneficiary shall have the right at its option to foreclose this Deed of Trust subject to the rights of any tenant or tenants of the Property.

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4.10. Beneficiary's and Trustee's Expenses. Grantor will pay all of Beneficiary's and Trustee's reasonable expenses incurred in any efforts to enforce any terms of this Deed of Trust, whether or not any suit is filed, including without limitation legal fees and disbursements, foreclosure costs and title charges and further including the cost of any property appraisals or other expenses incurred in pursuing any deficiency remaining following a non-judicial foreclosure of the Deed of Trust. All such sums, with interest thereon, shall be additional indebtedness of Grantor secured by this Deed of Trust. Such sums shall be immediately due and payable and shall bear interest from the date of disbursement at the highest default rate of interest stated in any of the Workout Documents, or the maximum rate that may be collected under applicable law if that is less.

5. RIGHTS UNDER CONDOMINIUM LAWS

If at any time all or any portion of the Property is condominiumized, the provisions of this Article 5 shall apply.

5.1. Security Interest in Rights Under Condominium Laws. This Deed of Trust and Beneficiary's security interest hereunder shall extend to all of Grantor's right, title and interest in and to any and all units, common elements, development rights, declarant rights and any other rights of Grantor in the Property now existing or subsequently arising under all laws now existing or later enacted relating to condominiums (collectively, the "**Condominium Laws**").

5.2. Representations and Warranties. Grantor hereby represents, warrants and agrees:

5.2.1. Not to file, record or amend any condominium declaration in connection with the Property without the prior written consent of Beneficiary, which consent Beneficiary shall not unreasonably withhold;

5.2.2. To take those steps necessary to ensure that the condominium declaration filed in connection with the Property complies with the legal requirements established by the Federal Housing Administration, Fannie Mae and Freddie Mac;

5.2.3. To make all payments required and to observe and perform all terms and conditions to be performed by Grantor under all documents by which the condominium is constituted and/or governed and all other documents required to be executed by declarant pursuant to the Condominium Laws;

5.2.4. To comply with all of its obligations as a unit owner under the Condominium Laws; and

5.2.5. To pay all charges, including all common expenses liabilities and assessments (special or general), insurance, taxes and other items Grantor is or may later be responsible for paying under the condominium documents as the same may be recorded and/or amended, and under the Condominium Laws.

5.3. Proxy. Until such time as this Deed of Trust is reconveyed of record, Grantor pledges to Beneficiary its vote and constitutes Beneficiary as Grantor's proxy (which appointment is coupled with an interest) with sole right to vote upon:

5.3.1. any partition of all or any portion of the Land subject to the condominium declaration;

5.3.2. the nature and amount of any insurance with respect to any such property and disposition of any proceeds thereof;



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5.3.3. the manner in which any condemnation or threat thereof shall be defended or settled;

5.3.4. determination as to whether or not to restore or rebuild any portion of the improvements located on the Land;

5.3.5. assessment of any expenses other than routine periodic assessments;

5.3.6. removal of all or any portion of the Land or Improvements from the provisions of the Condominium Laws; and

5.3.7. any modifications, amendments, extensions, renewals, cancellations, transfers or encumbrances of any unit that is part of the Property by deed, lease or other instrument.

5.4. **Authorized Representative.** Beneficiary is hereby appointed Grantor's authorized representative (which appointment is coupled with an interest) for the inspection of books and records as provided in the condominium declaration and/or bylaws, said appointment to be irrevocable until such time as this Deed of Trust is reconveyed of record as herein provided.

5.5. **Notices, etc.** Grantor will provide, upon request of Beneficiary, true and correct copies of:

5.5.1. any notices to the owners of the condominium units, including, but not limited to, any notices of any meetings of the owners of the condominium units;

5.5.2. minutes of any meetings;

5.5.3. any statement of financial condition of the condominium owners' association including any budgets or proposed budgets as available to any owner;

5.5.4. any statement showing allocation of proportional occupancy, expenses and assessments issued to Grantor;

5.5.5. any notice of default issued to Grantor; and

5.5.6. any amendment or proposed amendment to the condominium declaration, bylaws, or other condominium documents.

5.6. **Payment of Common Expenses.** Unless prohibited by law, Beneficiary or Trustee, either prior to, contemporaneously with, or subsequent to the foreclosure of this Deed of Trust, or while pending the expiration of any applicable redemption period subsequent to a judicial foreclosure and sale upon execution of the Property, may pay common expenses for which Beneficiary may be liable, and subsequent to such payments Beneficiary shall have a lien without merger on the Property for the amount paid of the same priority as the lien of this Deed of Trust, or if subsequent to sale or execution, said lien shall be prior to any lien held by any redemptioner as defined by law. In the event the Beneficiary is the successful bidder at any sale upon execution subsequent to a judicial foreclosure and obtains possessory rights to the Property subject to redemption by the judgment debtor or redemption as defined by law, any payments made by the Beneficiary or its successor in interest to satisfy condominium assessments levied and payable during the redemption period shall, in the event of any redemption, be recoverable by the Beneficiary from the judgment debtor or its successors in interest, or any redemptioner in the same manner as any other assessment or tax would be recoverable.

5.7. Condominium Insurance. The insurance provisions of this Deed of Trust shall be deemed satisfied so long as, upon establishment of the owners' association for the Property, the owners' association maintains all insurance for the Property that is required by the terms hereof or otherwise specified by Beneficiary as a consequence of the condominium nature of the Property, all in a form acceptable to Beneficiary.

5.8. Required Consent of Beneficiary. Grantor shall not, without Beneficiary's prior written consent:

5.8.1. partition or subdivide the Property;

5.8.2. consent to the abandonment or termination of any condominium created on the Property, except for abandonment or termination provided by law in the case of substantial destruction by fire or other casualty or in the case of taking by condemnation or eminent domain; or

5.8.3. consent to any material amendment to the declaration, bylaws or rules and regulations of the condominium owners' association, or equivalent constituent documents of any condominium created on the Property, including, but not limited to, any amendment that would change the fraction or percentage of allocated interests of the unit owners in the condominium; provided that Beneficiary hereby consents to all amendments to the declaration for the purpose of adding additional phases to the condominium.

6. GENERAL PROVISIONS.

6.1. Application of Payments. Except as expressly provided otherwise herein or in any of the other Workout Documents, or as required by law, amounts received under the Workout Documents or otherwise in connection with the Secured Obligations shall be applied against the Secured Obligations as Beneficiary may elect, in its sole discretion.

6.2. Reconveyance. Upon payment of all sums secured by this Deed of Trust, Beneficiary shall request Trustee to reconvey the property and shall surrender to Trustee this Deed of Trust and all notes evidencing the indebtedness secured by this Deed of Trust. Trustee shall reconvey the property without warranty to the person or persons legally entitled thereto. The grantee in any reconveyance may be described as the "person or persons legally entitled thereto," and the recitals therein of any matters or facts shall be conclusive proof of the truthfulness thereof. Such persons shall pay all reasonable costs of reconveyance and recordation, including any fee charged by Trustee.

6.3. Successor Trustee. In accordance with applicable law, Beneficiary may from time to time appoint a successor trustee to any Trustee appointed hereunder. Without conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred upon the Trustee herein and by applicable law.

6.4. Beneficiary's Powers and Obligations. Without affecting the liability of any person for payment or performance of the Secured Obligations or any of Beneficiary's rights or remedies, Beneficiary, at its option, may extend the time for payment of the indebtedness secured hereby or any part thereof, reduce payment thereon, release anyone liable on any of said indebtedness, accept a renewal note or notes therefor, modify the terms and time of payment of the indebtedness, permit an assumption of the Secured Obligations and/or transfer of the Property, release the lien of this Deed of Trust on any part of the Property or consent and/or cause Trustee to consent to the making of any map or plat of the Property, consent or cause Trustee to consent to the granting of any easement or creating any restriction on the Property, or join or cause Trustee to join in any subordination or other agreement affecting this Deed of Trust or the lien hereof. Grantor shall pay Beneficiary a reasonable service charge, together with such title insurance premiums and attorneys' fees as may be incurred at Beneficiary's option, for any such action if taken at Grantor's request. This Deed of



Trust is intended to benefit Beneficiary and provide security to it, and no third party shall be deemed to be owed any obligations or to have any rights or benefits by reason of any provisions herein or by Beneficiary's election to exercise or not exercise any right or remedy set forth herein or to take any other action permitted hereunder.

6.5. Subrogation. Beneficiary shall be subrogated for further security to the lien, although released of record, of any and all encumbrances discharged, in whole or in part, by the proceeds of the Secured Obligations or any other indebtedness secured thereby.

6.6. No Violation of Usury Laws. Interest, fees and charges collected or to be collected in connection with the indebtedness secured hereby shall not exceed the maximum, if any, permitted by any applicable law. If any such law is interpreted so that said interest, fees and/or charges would exceed any such maximum, and Grantor is entitled to the benefit of such law, then: (a) such interest, fees and/or charges shall be reduced by the amount necessary to reduce the same to the permitted maximum; and (b) any sums already paid to Beneficiary which exceeded the permitted maximum will be refunded. Beneficiary may choose to make the refund either by treating the payments, to the extent of the excess, as prepayments of principal or by making a direct payment to the person(s) entitled thereto. No prepayment premium shall be assessed on prepayments under this paragraph. The provisions of this paragraph shall control over any inconsistent provision of this Deed of Trust or any other Workout Documents.

6.7. Subdivision. From and after the occurrence of any Event of Default hereunder, should Beneficiary, in its sole discretion, determine that part but not all of the Property may be subject to environmental contamination and wish to foreclose on part, but not all, of the Property, or to convey its interest as to part, but not all of the Property, Grantor hereby consents to such subdivision of the Property as Beneficiary may determine is necessary or desirable to preserve Beneficiary's lien or the value of its security.

6.8. Additional Documents; Power of Attorney. Grantor, from time to time, will execute, acknowledge and deliver to Beneficiary upon request, and hereby irrevocably appoints Beneficiary its attorney-in-fact to execute, acknowledge, deliver and if appropriate file and record, such security agreements, assignments for security purposes, assignments absolute, financing statements, affidavits, certificates and other documents, in form and substance satisfactory to Beneficiary, as Beneficiary may request in order to perfect, preserve, continue, extend or maintain the assignments herein contained, the lien and security interest under the Deed of Trust, and the priority thereof, and/or accomplish a subdivision as provided in this prior subsection. Grantor will pay to Beneficiary upon request therefor all costs and expenses incurred in connection with the preparation, execution, recording and filing of any such document.

6.9. Waiver of Statute of Limitations. To the full extent Grantor may do so under applicable law, Grantor hereby waives the right to assert any statute of limitations as a defense to the enforcement of the lien of this Deed of Trust or to any action brought to enforce the Secured Obligations.

6.10. Forbearance by Beneficiary Not a Waiver. Any forbearance by Beneficiary in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any other right or remedy, and no waiver by Beneficiary of any particular Event of Default shall constitute a waiver of any other Event of Default or of any similar Event of Default in the future. Without limiting the generality of the foregoing, the acceptance by Beneficiary of payment of any sum secured by this Deed of Trust after the due date thereof shall not be a waiver of Beneficiary's right to either require prompt payment when due of all other sums so secured or to declare a default for failure to make prompt payment. The procurement of insurance or the payment of taxes or other liens or charges by Beneficiary shall not be a waiver of Beneficiary's right to accelerate the maturity of the indebtedness secured by this Deed of Trust, nor shall Beneficiary's receipt of any awards, proceeds or damages operate to cure or waive Grantor's default in payment of sums secured by this Deed of Trust.



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6.11. Modifications and Waivers. This Deed of Trust cannot be waived, changed, discharged or terminated orally, but only by a writing signed by the party against whom enforcement of any waiver, change, discharge or termination is sought.

6.12. Notice. Any notice required to be given Grantor or Beneficiary under this Deed of Trust shall be in writing and delivered to the appropriate party at the address and in the manner set forth in the Workout Documents, or if to Grantor, at the address set forth above, or such other address as Grantor may request in writing.

6.13. Governing Law; Severability. This Deed of Trust shall be governed by the laws of the State of in which the Land is located. If any provision or clause of this Deed of Trust conflicts with applicable law, such conflicts shall not affect other provisions or clauses hereof that can be given effect without the conflicting provision, and to this end the provisions hereof are declared to be severable.

6.14. Interpretations. As used herein: the term "**Grantor**" means the Grantor herein named, together with any subsequent owner of the Property or any part thereof or interest therein; the term "**Trustee**" means the Trustee herein named, together with any successor Trustee; and the term "**Beneficiary**" means the Beneficiary herein named, together with any subsequent owner or holder of the Secured Obligations or any interest therein, including pledgees, assignees and participants. This Deed of Trust shall be construed so that wherever applicable the use of the singular number shall include the plural number, and vice versa, and the use of any gender shall be applicable to all genders. Captions and headings of the paragraphs and articles of this Deed of Trust are for convenience only and are not to be used to interpret or define the provisions hereof.

6.15. Successors and Assigns Bound; Joint and Several Liability; Agents. This Deed of Trust shall bind and inure to the benefit of the parties hereto and their respective heirs, devisees, legatees, administrators, executors, successors and assigns, subject to the restrictions on transfer set forth herein. All obligations of Grantor hereunder are joint and several. In exercising any rights hereunder or taking actions provided for herein, Beneficiary and Trustee may act through their respective employees, agents, or independent contractors as authorized by Beneficiary and Trustee.

6.16. Time. Time is of the essence in connection with all obligations of Grantor herein.

6.17. Attachments. This Deed of Trust includes the Exhibits listed below, which are attached hereto and incorporated herein by this reference:

EXHIBIT A — Legal Description

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]



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IN WITNESS WHEREOF, Grantor has executed this Deed of Trust as of the date first above written.

GRANTOR/DEBTOR:

GRANDVIEW NORTH, LLC,
a Washington limited liability company

By: [Signature]
Name: GRANDVIEW NORTH, LLC
Its: MANAGING MEMBER

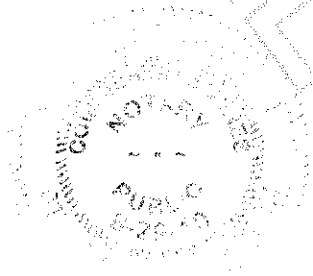
STATE OF WASHINGTON

COUNTY OF Skagit

SS.

On this day personally appeared before me Scott Wannack, to me known to be the MANAGING MEMBER of GRANDVIEW NORTH, LLC, the Washington limited liability company that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such limited liability company, for the uses and purposes therein mentioned, and on oath stated that he/she was duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 19th day of JAN, 2010.



[Signature]
Printed Name Summer D. Sawyer
NOTARY PUBLIC in and for the State of Washington,
residing at Grange Falls
My Commission Expires 8/29/10



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EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

LOTS 12, 13, AND 14, INCLUSIVE, "PLAT OF BRICKYARD MEADOWS - DIV. II", ACCORDING TO THE PLAT THEREOF, RECORDED DECEMBER 28, 2004, UNDER AUDITOR'S FILE NO. 200412280123, RECORDS OF SKAGIT COUNTY, WASHINGTON.

SITUATED IN SKAGIT COUNTY, WASHINGTON.



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