

After Filing Return To:
Richard J. Schroeder
Davis Wright Tremaine LLP
1201 Third Avenue, Suite 2200
Seattle, Washington 98101



201111290035
Skagit County Auditor

11/29/2011 Page 1 of 10 1:29PM

CHICAGO TITLE
1045003

MODIFICATION TO LEASEHOLD DEED OF TRUST

ACCOMMODATION RECORDING

Grantor(s):

1. JANICKI INDUSTRIES, INC., a Washington corporation

☐ Additional names on page _____ of document

Grantee(s):

1. WELLS FARGO BANK, NATIONAL ASSOCIATION, Beneficiary
2. WELLS FARGO BANK, NATIONAL BANK, Trustee

☐ Additional names on page _____ of document

Abbreviated Legal Description (lot, block and plat name, or section-township-range):

Trs 1-3, SK SP No 11-84, Ptn E/2 SW SE 18/35/5, Ptn S/2 SW
SW SE 18/35/5, Trs 1, 3 and 4, SK SP No. 93-019

x Additional legal description is on Exhibit A of document

Assessor's Property Tax Parcel Account Number(s):

350518-4-029-0003 (P39412)
350518-4-031-0009 (P39415)
350518-4-024-0100 (P107869)
350518-4-024-0200 (P107872)
350518-4-024-0300 (P107870)

Reference Numbers of Documents Assigned. Released or Modified (if applicable):

200807010054

☐ Additional reference numbers on page _____ of document

MODIFICATION TO LEASEHOLD DEED OF TRUST

THIS MODIFICATION TO LEASEHOLD DEED OF TRUST, SECURITY AGREEMENT AND FINANCING STATEMENT MODIFICATION AGREEMENT ("Agreement") is made and entered into as of November 23, 2011, by and between JANICKI INDUSTRIES, INC., a Washington corporation, as Grantor, with administrative offices at 1476 Moore St., Sedro-Woolley, Washington 98284, and WELLS FARGO BANK, NATIONAL ASSOCIATION, referred to herein as Beneficiary, whose address is MAC P6478-060, 205 - 108th Ave. N.E., Suite 600, Bellevue, Washington 98004.

A. Grantor executed and delivered a Leasehold Deed of Trust, Security Agreement and Financing Statement dated June 30, 2008 ("Original Deed of Trust") in favor of WELLS FARGO FINANCIAL NATIONAL BANK as Trustee for the benefit of Beneficiary, recorded July 1, 2008, under Auditor's File No. 200807010054, Records of Skagit County, Washington. This Deed of Trust is delivered in substitution for and not in satisfaction of the Original Deed of Trust.

B. Janicki Industries, Inc., a Washington corporation ("Borrower"), the Guarantors party thereto, Washington Federal Savings (as assignee of the Federal Deposit Insurance Corporation as Receiver for Horizon Bank) as a lender, and Wells Fargo Bank, National Association as Administrative Agent, lender, Swing Line Lender and L/C Issuer (collectively, "Existing Lenders") are parties to that certain Credit Agreement, dated as of June 30, 2008, as amended by First Amendment to Credit Agreement dated as of September 30, 2008, as amended by Second Amendment to Credit Agreement dated December 11, 2008, as amended by Third Amendment to Credit Agreement dated June 30, 2009, as amended by Fourth Amendment to Credit Agreement dated as of June 30, 2010, as amended by Fifth Amendment to Credit Agreement dated effective as of July 30, 2010, as amended by Sixth Amendment to Credit Agreement dated effective as of August 20, 2010, as amended by Seventh Amendment to Credit Agreement dated effective as of June 30, 2011 (as amended from time to time, the "Existing Credit Agreement"), pursuant to which the Lenders have made, or committed to make, revolving loans and term loans to the Borrower.

C. Pursuant to the Existing Credit Agreement, Borrower executed and delivered certain Promissory Notes: (i) Revolving Line of Credit Note dated as of June 30, 2009 in the maximum principal amount of \$10,000,000.00, in favor of Wells Fargo Bank, National Association, as amended by Amendment to Revolving Line of Credit Note dated effective as of June 30, 2010, as amended by Amendment to Revolving Line of Credit Note dated April 1, 2011, as amended by Amendment to Revolving Line of Credit Note dated August 29, 2011, as amended by Amendment to Revolving Line of Credit Note dated June 30, 2011; (iii) Promissory Note— Equipment Term Loan dated June 30, 2008 in the amount of \$6,953,869.61 in favor of Wells Fargo Bank, National Association; (iv) Promissory Note— Equipment Term Loan dated June 30, 2008 in the amount of \$5,206,130.39 in favor of Horizon Bank; (v) Promissory Note—



Reducing Revolving Loan dated June 30, 2008 in the amount of \$8,006,099.89 in favor of Wells Fargo Bank, National Association; (vi) Promissory Note— Reducing Revolving Loan dated June 30, 2008 in the amount of \$5,993,900.11 in favor of Horizon Bank; (vii) Promissory Note— Sedro-Woolley Term Loan dated June 30, 2008 in the amount of \$4,860,846.36 in favor of Wells Fargo Bank, National Association; (viii) Promissory Note— Sedro-Woolley Term Loan dated June 30, 2008 in the amount of \$3,639,153.64 in favor of Horizon Bank; (ix) Promissory Note— First Hamilton Term Loan dated December 26, 2008 in the amount of \$3,145,253.53 in favor of Wells Fargo Bank, National Association; (x) Promissory Note— First Hamilton Term Loan dated December 26, 2008 in the amount of \$2,354,746.47 in favor of Horizon Bank; (xi) Promissory Note— Second Hamilton Term Loan dated December 26, 2008, by Punkin Center, L.L.C. as borrower, in the amount of \$1,315,287.84 in favor of Wells Fargo Bank, National Association; and (xii) Promissory Note— Second Hamilton Term Loan dated December 26, 2008, by Punkin Center, L.L.C. as borrower, in the amount of \$984,712.16 in favor of Horizon Bank (collectively, the “Original Notes”).

D. Wells Fargo Bank, National Association has acquired the interests of Washington Federal Savings under the Existing Credit Agreement and the Original Notes.

E. Wells Fargo Bank, National Association, as lender (“Lender”), Borrower and Guarantors and Assignor have entered into an Amended and Restated Credit Agreement dated November 23, 2011 (“Amended and Restated Credit Agreement”) in substitution and replacement of the Existing Credit Agreement.

F. Pursuant to the Amended and Restated Credit Agreement, Borrower executed and delivered to Lender certain amended and restated promissory notes in substitution for the Original Notes: (a) with respect to the (Facility A) Revolving Credit Loan, the Amended and Restated Revolving Credit Loan Note dated November 23, 2011 in the principal amount of \$12,000,000.00; (b) with respect to the (Facility B) Equipment Term Loan, the Amended and Restated Equipment Term Loan Note in the principal amount of \$28,000,000.00 dated November 23, 2011; (c) with respect to the (Facility C) Sedro-Woolley Term Loan, the Amended and Restated Sedro-Woolley Term Loan Note in the principal amount of \$7,500,000.00 the dated November 23, 2011; (d) with respect to the (Facility D) Hamilton Term Loan, the Amended and Restated Hamilton Term Loan Note in the principal amount of \$7,700,000.00 dated November 23, 2011; and (e) with respect to the (Facility E) Punkin Center Term Loan, the Amended and Restated Punkin Center Term Loan Note, by Punkin Center, L.L.C. as borrower in the principal amount of \$2,199,190.00 dated November 23, 2011 (collectively, the “Amended Notes”).

G. Pursuant to the Financing Agreement dated as of August 1, 2010 among Borrower and Wells Fargo Bank, National Association, the Continuing Covenant Agreement dated as of August 1, 2010 among Borrower and Wells Fargo Bank, National Association, the Lien Subordination Agreement dated as of August 19, 2010 among Borrower and Wells Fargo Bank, National Association, the Security Agreement dated as of August 30, 2010 among Borrower and



Wells Fargo Bank, National Association, (collectively, the "Utah Bond Documents") Borrower issued to Wells Fargo Bank, National Association the Davis County Facility Revenue Bond (Janicki Industries Project) Series 2010 in the principal amount of \$9,400,000.00 (the "Utah Bond Financing").

H. The Deed of Trust secures the obligation of Grantor and other parties under the Existing Credit Agreement as amended and restated by the Amended and Restated Credit Agreement, the Original Notes, as amended and restated by the Amended Notes, and the Utah Bond Financing.

I. The Amended and Restated Credit Agreement and Amended Notes are referred to collectively as the "Amendment Agreements."

J. Grantor and Beneficiary wish to provide general notice of the terms of the Amendment Agreements and to ratify that the Deed of Trust remains in full force and effect, securing the obligations of Grantor hereunder, and the obligations of Grantor, Borrower and Guarantors (as defined in the Amended and Restated Credit Agreement) under the Existing Credit Agreement as amended and restated by the Amended and Restated Credit Agreement, the Original Notes, as amended and restated by the Amended Notes, and the Utah Bond Financing. Capitalized terms not otherwise defined herein have the meaning specified in the Amended and Restated Credit Agreement.

NOW, THEREFORE, in consideration of the mutual benefits to be derived herefrom it is agreed:

1. Recitals. The above recitals are true and correct and by this reference are incorporated into this Agreement.

2. Modification of Deed of Trust. Beneficiary and Grantor agree that the Deed of Trust is hereby modified as follows:

(a) Section 1.1 of the Deed of Trust is amended to read as follows:

Payment and performance of Janicki Industries Inc. ("Borrower"), in its capacity as borrower and its capacity as a guarantor under (a) each agreement of Grantor set forth herein or incorporated herein by reference, including without limitation any agreements set forth in any other document or documents executed by Grantor evidencing, securing or relating to any indebtedness secured hereby, whether of even or subsequent date; (b) the principal of Sixty-Six Million Seven Hundred Ninety-Nine Thousand One Hundred Ninety Dollars (\$66,799,190.00), with interest thereon according to the terms of (i) Amended and Restated Revolving Credit Loan Note in the principal amount of \$12,000,000.00 dated November 23, 2011 by Borrower; (ii) Amended and Restated Equipment Term Loan Note in the principal amount of \$28,000,000.00 dated November 23, 2011



by Borrower; (iii) Amended and Restated Sedro-Woolley Term Loan Note in the principal amount of \$7,500,000.00 dated November 23, 2011 by Borrower; (iv) Amended and Restated Hamilton Term Loan Note in the principal amount of \$7,700,000.00 dated November 23, 2011 by Borrower; (v) Amended and Restated Punkin Center Term Loan Note, by Punkin Center, L.L.C. as borrower, in the principal amount of \$2,199,190.00 dated November 23, 2011 (collectively, the "Amended Notes") executed pursuant to the Amended and Restated Credit Agreement (defined below) payable to Beneficiary or order and made by Borrower or Punkin Center, L.L.C., as applicable; (vi) the Davis County Facility Revenue Bond (Janicki Industries Project) Series 2010 in the principal amount of \$9,400,000.00 dated August 30, 2010; and all renewals, modifications or extensions thereof (which notes and all other notes, bonds and certificates evidencing any indebtedness secured hereby are collectively referred to herein as the "Notes"); (c) payment, observance, performance and discharge of all obligations, covenants, conditions and warranties contained in that certain Amended and Restated Credit Agreement showing Wells Fargo Bank, National Association as Lender, Janicki Industries, Inc., as Borrower, and Guarantors party thereto dated November 23, 2011 ("Amended and Restated Credit Agreement") and under the Utah Bond Documents; (d) payment of all Hedging Obligations under any Swap Contracts with Wells Fargo Bank, National Association in connection with the Notes and Loans under the Amended and Restated Credit Agreement ("Specified Swap Contracts"); and (e) payment of such further sums as may be advanced or loaned by Beneficiary to Borrower or Co-Borrower, or any of its or their affiliates, subsidiaries, successors or assigns, together with interest thereon at such rate as shall be agreed upon if the notes or other writing evidencing the further loan states that it is secured by this Deed of Trust. The Amended and Restated Credit Agreement, Amended Notes, Specified Swap Contracts, Utah Bond Documents, this Deed of Trust and other documents identified in the Amended and Restated Credit Agreement as Loan Documents, if any, or referred to in this paragraph, are hereinafter referred to as the "Loan Documents."

(b) Section 1.2 of the Deed of Trust is amended to read as follows:

Payment of any costs and expenses incurred by Beneficiary pursuant to this Deed of Trust or any other documents executed by Grantor securing or relating to the Notes, the Amended and Restated Credit Agreement, the Utah Bond Financing and/or the Collateral, whether executed prior to, contemporaneously with or subsequent to this Deed of Trust to protect the Collateral or fulfill the Borrower's obligations under the Notes or Grantor's obligations under this Deed of Trust, together with interest thereon at the interest rate set forth in the Amended and Restated Credit Agreement unless otherwise specified in the Amended and Restated Credit Agreement or agreed to in writing by Beneficiary; and



(c) Exhibit A to the Original Deed of Trust is hereby amended and superseded by the legal description in Exhibit A, attached.

(d) The Amended Notes are given in substitution for and not in satisfaction of the Original Notes, and the Indebtedness under the Original Notes remains outstanding.

3. Representations and Warranties. To induce Beneficiary to enter into this Agreement, Grantor represents and warrants:

(a) Grantor has full legal power and authority to enter into this Agreement, that all necessary consents and approvals for the execution and performance of this Agreement have been obtained, and when signed and delivered to Beneficiary this Agreement will be the legal, binding and enforceable obligation of Grantor.

(b) Grantor owns and is vested in title to all of the property described in the Deed of Trust.

(c) Grantor has no defense, claim or setoff, legal or equitable, to the full payment and performance of the obligations to Beneficiary under the Loan Documents.

4. General.

(a) Entire Agreement. The Amendment Agreements, Utah Bond Documents, and this Agreement constitute the entire agreement between Grantor and Lender with respect to the foregoing Modification to the Deed of Trust and shall not be amended except in writing signed by Beneficiary and Grantor.

(b) Endorsement. This Agreement shall be recorded in the real property records of Skagit County, and a modification endorsement, in form satisfactory to Lender, shall be added to Lender's loan policy of title insurance ("Loan Policy") for the Deed of Trust, bringing the effective date of the Loan Policy current to the effective date of this Agreement and insuring that the modifications provided for herein shall not impair the continued validity, priority and enforceability of the Deed of Trust.

(c) Governing Law. This Agreement shall be deemed entered into in the State of Washington and shall be construed and enforced under the laws of the State of Washington.

[Signature page follows]



IN WITNESS WHEREOF, the parties have executed this Modification to Leasehold Deed of Trust as of the date first set forth above.

GRANTOR:

JANICKI INDUSTRIES, INC. a Washington corporation

By:

Lisa Janicki

Name: Lisa Janicki

Title: CHIEF FINANCIAL OFFICER

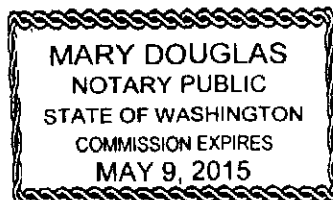
STATE OF WASHINGTON)

) ss.

COUNTY OF SKAGIT)

On this 23 day of November, 2011, before me, the undersigned Notary Public in and for the State of Washington, personally appeared **Lisa Janicki**, personally known to me (or proved to me on the basis of satisfactory evidence) to be CFO of Janicki Industries, Inc., the Washington corporation, that executed the Modification to Deed of Trust and acknowledged the Modification to Deed of Trust to be the free and voluntary act and deed of the corporation, by authority of its Board of Directors, for the uses and purposes therein mentioned, and on oath stated that she is authorized to execute this Modification to Deed of Trust and in fact executed the Modification to Deed of Trust on behalf of the corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.



Mary Douglas
NOTARY PUBLIC in and for the State of
Washington, residing at SKAGIT COUNTY, WA
My appointment expires: MAY 9, 2015
Print Name: MARY DOUGLAS



201111290035
Skagit County Auditor

11/29/2011 Page 7 of 10 1:29PM

IN WITNESS WHEREOF, the parties have executed this Modification to Deed of Trust as of the date first set forth above.

BENEFICIARY:

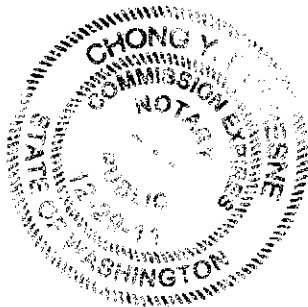
**WELLS FARGO BANK,
NATIONAL ASSOCIATION**

By: *Cheryl L. Ebner*
Cheryl L. Ebner
Its Vice President

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this 21 day of November, 2011, before me, the undersigned Notary Public in and for the State of Washington, personally appeared **Cheryl L. Ebner**, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed this instrument, on oath stated that she was authorized to execute the instrument, and acknowledged it as the Vice President of **WELLS FARGO BANK, NATIONAL ASSOCIATION**, to be the free and voluntary act and deed of said bank for the uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.



WASHINGTON
NOTARY PUBLIC in and for the State of
Washington, residing at BELLEVUE
My appointment expires: 12-29-11
Print Name: CHONG Y. DUFRESNE

S-2



201111290035
Skagit County Auditor

EXHIBIT "A"

PARCEL A:

Tracts 1, 2 and 3, SKAGIT COUNTY SHORT PLAT NO. 11-84, approved May 23, 1984 and recorded October 17, 1984 in Volume 6 of Short Plats, pages 179 and 180, under Auditor's File No. 8410170004, records of Skagit County, Washington; being a portion of the Southwest Quarter of the Southeast Quarter in Section 18, Township 35 North, Range 5 East of the Willamette Meridian.

Situated in Skagit County, Washington.

PARCEL B:

That portion of the East Half of the Southwest Quarter of the Southeast Quarter of Section 18, Township 35 North, Range 5 East of the Willamette Meridian, lying Northerly of the Great Northern Railway Company right-of-way;

EXCEPT the West 30 feet thereof;

AND EXCEPT the North 60 feet thereof;

AND ALSO EXCEPT that portion thereof lying Southerly of a sewer line as the same existed on May 1, 1970 and was referred to in Real Estate Contract recorded May 18, 1970, under Auditor's File No. 739080, records of Skagit County, Washington; and which runs in a Westerly direction from a point on the West line of the county road along the East line of said subdivision which is 351 feet, more or less, North of the centerline of the State Highway 20;

AND ALSO EXCEPT the East 20 feet for a road conveyed to Skagit County by Deed recorded under Auditor's File No. 57468, records of Skagit County, Washington;

AND FURTHER EXCEPTING any portion lying within the boundaries of Short Plat 92-019 recorded August 30, 1995 under Auditor's File No. 9508300056, records of Skagit County, Washington.

AND EXCEPT that portion deeded to the City of Sedro-Woolley, a Municipal Corporation, by deed recorded under Auditor's File No. 200902200074.

Situated in Skagit County, Washington



201111290035
Skagit County Auditor

11/29/2011 Page

9 of 10 1:29PM

EXCEPTIONS (continued):

PARCEL D:

The South Half of the Southwest Quarter of the Southwest Quarter of the Southeast Quarter of Section 18, Township 35 North, Range 5 East of the Willamette Meridian;

EXCEPT county road,, State Highway and railway right of way; AND EXCEPT the West 396 feet thereof.

Situated in Skagit County, Washington.

PARCEL E:

Tracts 1, 3 and 4 of SKAGIT COUNTY SHORT PLAT NO. 92-019, approved August 25, 1995, and recorded August 30, 1995, in Volume 12 of Short Plats, page 25, under Auditor's File No. 9508300056, records of Skagit County, Washington; being a portion of the Southwest Quarter of the Southeast Quarter of Section 18, Township 35 North, Range 5 East of the Willamette Meridian.

Situated in Skagit County, Washington.



201111290035
Skagit County Auditor