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Skagit County Auditor  
2/24/2014 Page

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1 of 17 11:53AM

**RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:**

Comerica Bank  
39200 West Six Mile Road  
Livonia, Michigan 48152  
Attn: National Documentation Services, Mail Code 7578

*Allegiance Title 1336137-ALND*

**DEED OF TRUST  
WITH ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING**

**GRANTOR:** Yih-Min Jan and Chung-Hua Jan, husband and wife

**GRANTEE:** Comerica Bank (as beneficiary)

**TRUSTEE:** Comerica Bank c/o Brian P. Foley

**ABBREVIATED LEGAL DESCRIPTION:**

Lots 17, 18 and 19, "Gibraltar Annex", as per Plat recorded in Volume 7 of Plats, Page 9 and 9 1/2 Records of Skagit County, Washington.

**PROPERTY ADDRESS:** 14429 Jura Lane, Anacortes, Washington 98221-8628

**ASSESSOR'S TAX PARCEL ID NO.** P73629

ATTENTION COUNTY RECORDER: THIS INSTRUMENT IS INTENDED TO BE EFFECTIVE AS A FINANCING STATEMENT FILED AS A FIXTURE FILING PURSUANT TO THE UNIFORM COMMERCIAL CODE AS ENACTED IN THE STATE OR WASHINGTON. PORTIONS OF THE GOODS COMPRISING A PART OF THE MORTGAGED PROPERTY ARE OR ARE TO BECOME FIXTURES RELATED TO THE LAND DESCRIBED IN EXHIBIT A HERETO. THIS INSTRUMENT IS TO BE FILED FOR RECORD IN THE RECORDS OF THE COUNTY WHERE DEEDS OF TRUST ON REAL PROPERTY ARE RECORDED AND SHOULD BE INDEXED AS BOTH A DEED OF TRUST AND AS A FINANCING STATEMENT COVERING FIXTURES. THE ADDRESSES OF GRANTOR (DEBTOR) AND HOLDER (SECURED PARTY) ARE SPECIFIED IN THE FIRST PARAGRAPH ON PAGE 1 OF THIS INSTRUMENT.

Comerica Bank  
39200 West Six Mile Road  
Livonia, Michigan 48152  
Attn: National Documentation Services, Mail Code 7578

**DEED OF TRUST  
(WITH ASSIGNMENT OF RENTS,  
SECURITY AGREEMENT AND FIXTURE FILING)**

STATE OF WASHINGTON

§  
§  
§

**KNOW ALL MEN BY THESE PRESENTS:**

COUNTY OF SKAGIT

THAT, as of the 31 day of January, 2014, Yih-Min Jan and Chung-Hua Jan, husband and wife (hereinafter called "Grantor", whether one or more), whose mailing address is 220 Justin Road, Murphy, Texas 75094, in consideration of the debt and trust hereinafter mentioned, does hereby GRANT, TRANSFER, and ASSIGN, in TRUST WITH POWER OF SALE unto Comerica Bank, Attn: Brian P. Foley of Dallas County, Texas, Trustee, (hereinafter called "Trustee"), the following described property for the benefit of Comerica Bank:

1. **Real Property.** The real estate situated in Skagit County, Washington, which is more particularly described in Exhibit "A" attached hereto and made a part hereof by reference for all purposes, together with all buildings, structures, and other improvements (such buildings, structures, and other improvements being hereinafter sometimes called the "Improvements") now or hereafter situated thereon (such real estate, and Improvements being hereinafter sometimes called the "Land").

2. **Fixtures and Personal Property.** All fixtures, equipment, and personal property in which Grantor now has, or at any time hereafter acquires, an interest, and which are now, or at any time hereafter, either a part of the Land or situated in, on, or about the Land and utilized in connection with the operation of the Land, or acquired or delivered to the Land for use or incorporation in construction of any improvements on the Land, including, but not limited to, building and construction materials and equipment; all plans and specifications for improvements to be placed on the Land; all contracts and subcontracts relating to the Land; all deposits (including tenant's security deposits), funds, accounts, contract rights, instruments, documents, general intangibles (including trademarks, trade names, and symbols used in connection therewith), with notes or chattel paper arising from or by virtue of any transactions related to the Land; all permits, licenses, franchises, certificates, and other rights and privileges obtained in connection with the Land; all proceeds arising from or by virtue of the sale, lease, or other disposition of any of the real or personal property described herein; all heating, lighting, refrigeration, plumbing, ventilating, incinerating, water-heating, cooking, communications, electrical, dish-washing and air-conditioning equipment, and all appliances, furniture, engines, machinery, elevators, pumps, motors, compressors, boilers, condensing units, doors, windows, window screens, disposals, range hoods, tables, chairs, drapes, rods, beds, springs, mattresses, lamps, bookcases, cabinets, sprinklers, hose, tools, lawn equipment, sofas, dressers, mirrors, televisions, radios, speakers, electrical wiring, pipe and floor coverings, and all renewals, replacements, proceeds, and substitutions thereof and additions thereto (all property described or

DEED OF TRUST (Skagit County)



PAGE 1

referred to in this paragraph sometimes called "Accessories"). Grantor agrees that the Accessories are and will be a part of and affixed to the Land.

**3. Other Property.** All other interest of every kind and character which Grantor now has or at any time hereafter acquires in and to the property described or referred to in paragraphs 1 and 2 preceding, including but not limited to proceeds from the condemnation or threatened condemnation of the Land and the proceeds of any and all insurance covering the Land, and all property which is used in connection with the operation of the Land and Accessories.

All properties, rights, and interests described or referred to in paragraphs 1, 2, and 3 preceding are sometimes referred to collectively as the "Property".

**4. Leasehold Estates.** In the event the estate of the Grantor in and to any of the Property is a leasehold estate, this conveyance shall include, and the lien, security interest, and assignment created hereby shall encumber and extend to all other further or additional title, estates, interest, or rights which may exist now or at any time be acquired by Grantor in or to the Property demised under the lease creating such leasehold estate and including Grantor's rights, if any, to the Property demised under such lease and, if fee simple title to any of such Property shall ever become vested in the Grantor such fee simple interest shall be encumbered by this Deed of Trust in the same manner as if Grantor had fee simple title to said Property as of the date of execution hereof.

**TO HAVE AND TO HOLD** the above-described Property, together with all improvements thereon and all the rights, hereditaments, and appurtenances in anywise appertaining or belonging thereto, unto Trustee, and his successors or substitutes in this trust, and his and their assigns, against the claim or claims of all persons claiming or to claim the same or any part thereof.

Grantor, for Grantor and Grantor's successors, hereby agrees to warrant and forever defend, all and singular, the Property unto Trustee, and his successors or substitutes in this trust, and his and their assigns, in trust and for the uses and purposes hereinafter set forth, forever.

Grantor hereby grants to Holder and its successors and assigns, a security interest in the Property, and each and every part thereof, and in all proceeds from the sale, lease, or other disposition thereof and in all sums, proceeds, funds, and reserves described or referred to in Section 5.7, 5.8, and 5.9 hereof; provided that the grant of a security interest in proceeds shall not be deemed to authorize any action otherwise prohibited herein. The security interest created hereby is specifically intended to cover and include all Leases (as such term is defined in Section 4.1 hereof), together with all the right, title, and interest of Grantor, as lessor thereunder, including, without limiting the generality of the foregoing, the present, and continuing right to make claim for, collect, receive, and receipt for any and all of the rents, income, revenues, issues, and profits and monies payable as damages or in lieu of rent and monies payable as the purchase price of the Property or any part thereof or of awards or claims for money and other sums of money payable or receivable thereunder howsoever payable, and to bring actions and proceedings thereunder or for the enforcement thereof, and to do any and all things which Grantor or any lessor is or may become entitled to do under the Leases, provided, that this provision shall neither impair nor diminish any obligation of Grantor under the Leases, nor shall any obligation be imposed upon Holder.



## ARTICLE I.

### The Obligation

**Section 1.1 Holder and Obligation.** This Deed of Trust [as used herein, the expression "this Deed of Trust" shall mean this Deed of Trust (With Assignment of Rents, Security Agreement and Fixture Filing)] and all rights, title, interest, liens, security interest, powers, and privileges created hereto or arising by virtue hereof, are given to secure payment and performance of the following indebtedness, obligations, and liabilities: (a) the indebtedness(es) evidenced by Grantor's guaranty of that certain promissory note of even date herewith (the "Note") executed by 3705 Ohio, L.L.C., a Texas limited liability company, and Enhanced Education Solutions, Inc., a Texas corporation, payable to the order of **Comerica Bank** ("Holder") whose mailing address for payments is **39200 West Six Mile Road, Livonia, Michigan 48152, Attention: National Documentation Services, Mail Code 7578** in the principal amount of **One Million Seven Hundred Thirty Six Thousand Six Hundred and No/100 Dollars (\$1,736,600.00)** bearing interest as therein specified, containing an attorney's fee clause, interest and principal being payable as therein specified, and finally maturing 10 years from the date of the Note; (b) all indebtedness, obligations, and liabilities arising pursuant to the provisions of this Deed of Trust or the Loan Agreement (herein so called), if any, of even date herewith between Grantor and Holder or any of the Loan Documents referred to in the Loan Agreement; (c) all other and any additional debts, obligations, and liabilities of every kind and character of Grantor whether now or hereafter existing in favor of Holder, regardless of whether such debts, obligations, and liabilities be direct or indirect, primary, secondary, joint, several, joint and several, fixed, or contingent; and (d) any and all renewals, modifications, rearrangements, amendments, or extensions of all or any part of the indebtedness, obligations, and liabilities described or referred to in Subsections 1.1(a), 1.1(b), and 1.1(c) preceding. The word "Obligation", as used herein, shall mean all of the indebtedness, obligations, and liabilities described or referred to in Subsections 1.1(a), 1.1(b), and 1.1(c) preceding and as described and referred to in this subsection 1.1(d). The word "Holder", as used herein, shall mean the Holder named in Subsection 1.1(a) above and all subsequent Holders of the Obligation at the time in question.

## ARTICLE II.

### Certain Representations; Warranties, and Covenants of Grantor

**Section 2.1 Warranties and Representations.** Grantor represents, warrants, and undertakes that (a) Grantor has full right and authority to execute and deliver this Deed of Trust; and (b) Grantor has in its own right good and indefeasible title in fee simple to the Property free from any encumbrance superior to the indebtedness hereby secured, except for permitted prior liens in favor of Wells Fargo Bank, N.A., securing promissory notes in the original principal amounts of \$417,000.00 and \$220,500.00.

**Section 2.2 Covenants.** Grantor, for Grantor and Grantor's successors and permitted assigns hereunder, covenants, agrees, and undertakes to: (a) pay, or cause to be paid, before delinquent, all taxes and assessments of every kind or character in respect to the Property, or any part thereof, from time to time, upon request of Holder, to furnish to Holder evidence satisfactory to Holder of the timely payment of such taxes and assessments and governmental charges; (b) purchase policies of insurance with respect to the Property with such insurers, in such amounts and covering such risks as shall be satisfactory to Holder, including, but not limited to, (1) owner's and contractors' policies of comprehensive general public liability insurance; (2) hazard



insurance against all risks of loss, including collapse, in an amount not less than the full replacement cost of all Improvements, including the cost of debris removal, with annual agreed amount endorsement and sufficient at all times to prevent Grantor from becoming a co-insurer, such insurance prior to completion of the Improvements to be in builder's risk form on a non-reporting basis and including coverage for all materials and equipment, wherever located, intended to be installed in or utilized in the construction of the Improvements; (3) if the Property is in a "Flood Hazard Area", a flood insurance policy, or binder therefor, in an amount equal to the principal amount of the Note or the maximum amount available under the Flood Disaster Protection Act of 1973, and regulations issued pursuant thereto, as amended from time to time, whichever is less, in form complying with the "insurance purchase requirements" of that act; (4) such policies of mortgagee's title insurance insuring the validity and priority of this Deed of Trust and any future renewals or extensions of this Deed of Trust, including any such mortgagee's title insurance which the Holder may require during the term of the Obligation to supplement or replace any mortgagee's title policy earlier provided to Holder insuring the validity and priority of the Deed of Trust; and (5) such other insurance, if any, as Holder may require from time to time, or which is required by the Loan Agreement; (c) cause all insurance carried in accordance with Section 2.2(b) to be payable to Holder as a mortgagee, to deliver the original policies of insurance carried by each Lessee (as that term is hereinafter defined) for the benefit of Grantor, and to cause all such policies to be payable to Holder as its interest may appear; (d) pay, or cause to be paid, all premiums for such insurance at least ten (10) days before such premiums become due, furnish to Holder satisfactory proof of the timeliness of such payments and deliver all renewal policies to Holder at least ten (10) days before the expiration date of each expiring policy; (e) comply with all federal, state, or municipal laws, rules, ordinances, and regulations applicable to the Property and its ownership, use and operation, including but not limited to maintenance of the Property in compliance with the Americans with Disabilities Act of 1990, and comply with all, and not violate any, easements, restrictions, agreements, covenants, and conditions with respect to or affecting the Property or any part thereof; (f) at all times maintain, preserve, and keep the Property in good repair and condition and presenting a first-class appearance, and from time to time make all necessary and proper repairs, replacements, and renewals, and not commit or permit any waste on or of the Property, and not do anything to the Property that may impair its value; (g) promptly pay all bills for labor and materials incurred in connection with the Property and never permit to be created or to exist in respect to the Property or any part thereof any lien or security interest even though inferior to the liens and security interest hereof for any such bill, and in any event never permit to be created or exist in respect to the Property or any part thereof any other or additional lien or security interest on a parity with or superior to any of the liens or security interest hereof; (h) at any time, and from time to time, upon request of Holder, forthwith, execute and deliver to Holder any and all additional instruments and further assurances, and do all other acts and things, as may be reasonably necessary or proper, in Holder's opinion, to effect the intent of these presents, more fully evidence and perfect the rights, titles, liens, and security interests herein created or intended to be created and to protect the rights, remedies, powers, and privileges of Holder hereunder; (i) from time to time, upon request of Holder, promptly furnish to Holder financial statements and reports relating to the Grantor and the Property as required in the Loan Agreement; (j) continuously maintain Grantor's existence and its right to do business in the State of Washington; (k) pay and perform all of the Obligation in accordance with the terms thereof or of this Deed of Trust; (l) at any time any law shall be enacted imposing or authorizing the imposition of any tax upon this Deed of Trust, or upon any rights, titles, liens, or security interests created hereby, or upon the Obligation, or any part thereof, immediately pay all such taxes; provided that, in the alternative, Grantor may, in the event of the enactment of such a law, and must, if it is unlawful for Grantor to pay such taxes, prepay the Obligation in full within sixty (60) days after demand therefor by Holder; (m) at any time and from time to time, furnish promptly upon request of Holder a written statement or affidavit, in such form as shall be satisfactory to Holder, stating the unpaid balance of the Obligation and that there are no offsets



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or defenses against full payment of the Obligation and the terms hereof, or, if there are any such offsets or defenses, specifying them; (n) punctually and properly perform all of Grantor's covenants, duties, and liabilities under any other security agreement, mortgage, deed of trust, collateral pledge agreement, contract, or assignment of any kind now or hereafter existing as security for or in connection with payment of the Obligation, or any part thereof (each such security agreement being herein called "other security instrument"; (o) allow Holder from time to time to inspect the Property and all records relating thereto or to the Obligation, and to make and take away copies of such records; (p) not cause or permit the Accessories, or any part thereof, to be removed from the county and state where the Land is located, except items of the Accessories which have become obsolete or worn beyond practical use and which have been replaced by adequate substitutes having a value equal to or greater than the replaced items when new; and (q) not without the prior written consent of Holder sell, trade, transfer, assign, or exchange or otherwise dispose of (or suffer or permit any of the same to occur with respect to) (1) any capital stock of Grantor if Grantor is a corporation or (2) any partnership interest either general or limited if Grantor is a partnership, except by devise, descent, or operation of law upon the death of a shareholder, partner, or joint venturer, as the case may be.

### ARTICLE III.

#### Respecting Defaults and Remedies of Holder

**Section 3.1 Default.** The term "default", as used herein, shall mean the occurrence of one or more of the following events: (a) the failure of Grantor to pay any sum of money in accordance with the Obligation, or any part thereof, on the date on which the payment is due; or (b) the failure of Grantor punctually and properly to perform any covenant, agreement, undertaking, or condition contained herein, or in the Note, or any renewal, modification, rearrangement, amendment, or extension thereof, or in the Loan Agreement or any of the loan documents referred to therein, or in any other security instrument which secures the Note or the Obligation; or (c) a default under any mortgage or security interest which covers or affects the Property.

**Section 3.2 Holder's Remedies Upon Default.** Upon a default, Holder may, at its option, do any one or more of the following:

(a) If Grantor has failed to keep or perform any covenant whatsoever contained in this Deed of Trust, Holder may, but shall not be obligated to any person to do so, perform or attempt to perform said covenant, and any payment made or expense incurred in the performance or attempted performance of any such covenant shall be a part of the Obligation, and Grantor promises, upon demand, to pay to Holder, at the place where the Note is payable, or at such other place as Holder may direct by written notice, all sums so advanced or paid by Holder, with interest from the date when paid or incurred by Holder at the rate provided in the Note. No such payment by Holder shall constitute a waiver of any default. In addition to the liens and security interest hereof, Holder shall be subrogated to all rights, titles, liens, and security interest securing the payment of any debt, claim, tax, or assessment for the payment of which Holder may make an advance, or which Holder may pay.

(b) Holder may, without notice, demand, or presentment, which are hereby waived by Grantor and all other parties obligated in any manner whatsoever on the Obligation, declare the entire unpaid balance of the Obligation immediately due and payable, and upon such declaration, the entire unpaid balance of the Obligation shall be immediately due and payable. Grantor hereby waives all notices allowed by law, including without limitation,



demand, presentment, notice of dishonor, protest, notice of intent to accelerate maturity and notice of acceleration.

(c) Holder may request Trustee to proceed with foreclosure if the power of sale is invoked, and in such event Trustee is hereby authorized and empowered, upon such request of Holder, to sell the Property, or any part thereof, in accordance with the Deed of Trust Act of the State of Washington (RCW Chapter 61.24 as existing now, or hereafter amended) and the Uniform Commercial Code of the State of Washington where applicable, at public auction to the highest bidder. Any person except Trustee may bid at Trustee's sale. Trustee shall apply the proceeds of the sale as follows: (a) to the expense of sale, including a reasonable Trustee's fee and attorney's fee; (b) to the Obligation secured by this Deed of Trust; and (c) the surplus, if any, shall be distributed in accordance with said Deed of Trust Act. Trustee shall deliver to the purchaser at the sale its deed, without warranty, which shall convey to the purchaser the interest in the property which Grantor had or had the power to convey at the time of his/her/their execution of this Deed of Trust, and such as he may have acquired thereafter. Trustee's deed shall recite the facts showing that the sale was conducted in compliance with all the requirements of law and of this Deed of Trust, which recital shall be prima facie evidence of such compliance and conclusive evidence thereof in favor of bona fide purchasers and encumbrancers for value. The Power of Sale conferred by this Deed of Trust and by the Deed of Trust Act of the State of Washington is not an exclusive remedy and when not exercised, Holder may foreclose this Deed of Trust as a mortgage. At any time Holder may appoint in writing a successor trustee, or discharge and appoint a new Trustee in the place of any Trustee named herein, and upon the recording of such appointment in the mortgage records of the county in which this Deed of Trust is recorded, the successor trustee shall be vested with all powers of the Original Trustee. The Trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of any action or proceeding in which Grantor, Trustee, or Holder shall be a party, unless such action or proceeding is brought by the Trustee. In the event of the resignation or death of any such substitute trustee, or failure, refusal, or inability to make any such sale or perform such trusts, or, at the option of Holder, without cause, successive substitute trustees may thereafter, from time to time, be appointed in the same manner. Wherever herein the word "Trustee" is used, the same shall mean the duly appointed trustee or substitute trustee hereunder at the time in question.

(d) Holder may, or Trustee may upon written request of Holder, proceed by suit or suits, at law or in equity, to enforce the payment and performance of the Obligation in accordance with the terms hereof and of the Note or other instruments evidencing it, to foreclose the liens, security interest and this Deed of Trust as against all or any part of the Property, and to have all or any part of the Property sold under the judgment or decree of a court of competent jurisdiction.

(e) Holder, as a matter of right and without regard to the sufficiency of the security, and without any showing of insolvency, fraud, or mismanagement on the part of Grantor, and without the necessity of filing any judicial or other proceeding other than the proceeding for appointment of a receiver, shall be entitled to the appointment of a receiver or receivers of the Property, or any part thereof, and of the income, rents, issues, and profits thereof.

(f) Holder may enter upon the Land, take possession of the property and remove the Accessories, or any part thereof, with or without judicial process, and, in connection therewith, without any responsibility or liability on the part of Holder, take possession of



any property located on or in the Property which is not a part of the Property and hold or store such property at Grantor's expense.

(g) Holder may require Grantor to assemble the Accessories, or any part thereof, and make them available to Holder at a place to be designated by Holder which is reasonably convenient to Grantor and Holder.

(h) After notification, if any, hereafter provided in this Subsection 3.2(h), Holder may sell, lease, or otherwise dispose of, at the office of Holder, or on the Land, or elsewhere, as chosen by Holder, all or any part of the Accessories, in their then condition, or following any commercially reasonable preparation or processing, and each Sale (as used in this Subsection, the term "Sale" means any such sale, lease, or other disposition made pursuant to this Subsection 3.2(h)) may be as a unit or in parcels, by public or private proceedings, and by way of one or more contracts, and at any Sale, it shall not be necessary to exhibit the Accessories, or part thereof, being sold. The Sale of any part of the Accessories shall not exhaust Holder's power of Sale, but Sales may be made from time to time until the Obligation is paid and performed in full. Reasonable notification of the time and place of any public Sale pursuant to this Subsection 3.2(h), or reasonable notification of the time after which any private Sale is to be made pursuant to this Subsection 3.2(h), shall be sent to Grantor and to any other person entitled under the Uniform Commercial Code of the State of Washington ("Code") to notice; provided that if the Accessories or part thereof being sold are perishable, or threaten to decline rapidly in value, or are of a type customarily sold on a recognized market, Holder may sell, lease, or otherwise dispose of the Accessories, or part thereof, without notification, advertisement, or other notice of any kind. It is agreed that notice sent or given not less than ten (10) calendar days prior to the taking of the action to which the notice relates is reasonable notification and notice for the purposes of this Subsection 3.2(h).

(i) Holder may surrender the insurance policies maintained pursuant to Subsection 2.2(b) hereof, or any part thereof, and receive and apply the unearned premiums as a credit on the Obligation, and in connection therewith, Grantor hereby appoints Holder as the agent and attorney-in-fact for Grantor to collect such premiums.

(j) Holder may retain the Accessories in satisfaction of the Obligation whenever the circumstances are such that Holder is entitled to do so under the Code.

(k) Holder may buy the Property, or any part thereof, at any public or judicial sale.

(l) Holder may buy the Accessories, or any part thereof, at any private sale if the Accessories, or part thereof, being sold are a type customarily sold in a recognized market or are a type which is the subject of widely distributed standard price quotations.

(m) Holder shall have and may exercise any and all other rights and remedies which Holder may have at law or in equity, or by virtue of any other security instrument, or under the Code, or otherwise.

(n) Holder may apply the reserves, if any, required by Section 5.9 hereof, toward payment of the Obligation.

**Section 3.3 Holder as Purchaser.** If Holder is the purchaser of the Property, or any part thereof, at any sale thereof, whether such sale be under the power of sale hereinabove vested in Trustee, or upon any other foreclosure of the liens and security interest hereof, or otherwise,



Holder shall, upon any such purchase, acquire good title to the Property so purchased, free of the liens and security interest of these presents.

**Section 3.4 Other Rights of Holder.** Should any part of the Property come into the possession of Holder, whether before or after default, Holder may use or operate the Property for the purpose of preserving it or its value, pursuant to the order of a court of appropriate jurisdiction, or in accordance with any other rights held by Holder in respect to the Property. Grantor covenants to promptly reimburse and pay to Holder, at the place where the Note is payable, the amount of all reasonable expenses (including the cost of any insurance, taxes, or other charges), incurred by Holder in connection with its custody, preservation, use, or operation of the Property, together with interest thereon from the date incurred by Holder at the rate provided in the Note, and all such expenses, costs, taxes, interest, and other charges shall be a part of the Obligation. It is agreed, however, that the risk of loss or damage to the Property is on Grantor, and Holder shall have no liability whatsoever for decline in value of the Property, or for failure to obtain or maintain insurance, or for failure to determine whether insurance in force is adequate as to amount or as to the risks insured.

**Section 3.5 Possession After Foreclosure.** In case the liens or security interest hereof shall be foreclosed by Trustee's sale or by judicial action, the purchaser at any such sale shall receive, as an incident to his ownership, immediate possession of the property purchased, and if Grantor or Grantor's successors shall hold possession of said Property, or any part thereof, subsequent to foreclosure, Grantor and Grantor's successors shall be considered as tenants at sufferance of the purchaser at foreclosure sale, and anyone occupying the Property after demand is made for possession thereof, shall be guilty of forcible detainer and shall be subject to eviction and removal, forcible or otherwise, with or without process of law, and all damages by reason thereof are hereby expressly waived.

**Section 3.6 Application of Sales Proceeds Upon Foreclosure.** The proceeds from any sale, lease, or other disposition made pursuant to this Article III, or the proceeds from surrendering any insurance policies pursuant to Subsection 3.2(i) hereof, or any rental collected by Holder pursuant to Article IV hereof, or the reserves required by Section 5.9 hereof, or sums received pursuant to Section 5.7 hereof, or proceeds from insurance which Holder elects to apply to the Obligation pursuant to Section 5.8 hereof, shall be applied by Trustee, or by Holder, as the case may be, in accordance with Section 3.2(c) hereof.

**Section 3.7 Abandonment of Sale.** In the event a foreclosure hereunder should be commenced by Trustee in accordance with Subsection 3.2(c) hereof, Holder may at any time before the sale, direct Trustee to abandon the sale, and may then institute suit for the collection of the Note, and for the foreclosure of the liens and security interest hereof. If Holder should institute a suit for the collection of the Note, and for a foreclosure of the liens and security interest hereof, it may at any time before the entry of a final judgment in said suit dismiss the same, and require Trustee to sell the Property, or any part thereof, in accordance with the provisions of this Deed of Trust.

## ARTICLE IV.

### Leases and Assignment of Rental

**Section 4.1 Definitions.** As used in this Deed of Trust: (a) "Lease" means any lease, sublease, or other agreement under the terms of which any person has or acquires any right to occupy or use the Property, or any part thereof, or any interest therein, including all extended or



renewal terms thereof and all modifications or amendments thereto and replacements therefor; (b) "Lessee" means the lessee, sublessee, tenant, or other person having the right to occupy or use a part of the Property under a Lease; and (c) "Rental" means the rents, royalties, and other consideration payable to Grantor by the Lessee under the terms of a lease.

**Section 4.2 Assignment of Rental.** Grantor hereby absolutely and not only as collateral assigns to Holder all Rental payable under each Lease now or at any time hereafter existing, such assignment being upon the following terms (a) until receipt from Holder of notice of the occurrence of a default each Lessee may pay Rental directly to Grantor as licensee of Holder, but Grantor covenants to hold all Rental so paid in trust for the use and benefit of Holder; (b) upon receipt from Holder of notice that a default exists, or at any other time in the sole discretion of Holder that notice is given to a Lessee, each Lessee is hereby authorized and directed to pay directly to Holder all Rental thereafter accruing, and a receipt for such payment from Holder shall be a release of such Lessee to the extent of all amounts so paid; (c) Rental so received by Holder shall be applied by Holder, first, to the expenses, if any, of collection and then in accordance with Section 3.6; (d) without impairing its rights hereunder, Holder may, at its option, at any time and from time to time, release to Grantor Rental so received by Holder, or any part thereof; (e) Holder shall not be liable for its failure to collect, or its failure to exercise diligence in the collection of Rental, but shall be accountable only for Rental that it shall actually receive; (f) this assignment shall terminate upon the release of this Deed of Trust but no Lessee shall be required to take notice of termination until a copy of such release shall have been delivered to such Lessee. As between Holder and Grantor, and any person claiming through or under Grantor, other than a Lessee who has not received notice of default pursuant to Section 4.2(b). The assignment contained in this Section 4.2 is intended to be absolute, unconditional, and presently effective and the provisions of Subsection 4.2(a) and 4.2(b) are intended solely for the benefit of each Lessee and shall never inure to the benefit of Grantor or any person claiming through or under Grantor, other than a Lessee who has not received such notice. It shall never be necessary for Holder to institute legal proceedings of any kind whatsoever to enforce the provisions of this Section 4.2.

**Section 4.3 No Subordination.** Nothing in this Article IV shall ever be construed as subordinating this Deed of Trust to any Lease; provided, however, that any proceedings by Holder to foreclose this Deed of Trust, or any action by way of its entry into possession after default, shall not operate to terminate any Lease which has been approved by Holder, and Holder will not cause any Lessee under any such approved Lease to be disturbed in his possession and enjoyment of the leased premises so long as such Lessee shall continue to fully and promptly perform all of the terms, covenants, and provisions of its Lease.

**Section 4.4 Grantor's Obligations.** Grantor shall: (a) upon demand by Holder, assign to Holder, by separate instrument in form and substance satisfactory to Holder, any or all Leases, or the Rental payable thereunder, including but not limited to, any Lease which is now in existence or which may be executed after the date hereof; (b) neither accept from any Lessee, nor permit any Lessee to pay, Rental for more than one month in advance not including a customary security deposit; (c) comply, as lessor, with the terms and provisions of each Lease; (d) not waive, excuse, release, or condone any nonperformance of any covenants of any Lessee; (e) give to Holder duplicate notice of each default by each Lessee given by Grantor; and (f) cause each lessee to agree (and each Lessee under each Lease executed after the date hereof does so agree) to give to Holder written notice of each and every default by Grantor under his Lease and not to exercise any remedies under such Lease unless Holder fails to cure such default within ten days, or within such longer period as may be reasonably necessary if such default cannot be cured within ten (10) days, after Holder has received such notice, provided that Holder shall never have any obligation or duty to cure any such default.



**Section 4.5 Holder's Collection of Rental.** In the event Holder ever collects Rental through an agent, Holder shall be entitled to pay its agent as compensation for collecting such Rental, from sums so collected, a sum not to exceed five percent (5%) of the Rental so collected.

## ARTICLE V.

### Miscellaneous

**Section 5.1 Reconveyance.** If the Obligation is paid in full in accordance with the terms of this Deed of Trust and the Note and other instruments evidencing or securing such Obligation, and if Grantor shall well and truly perform all of Grantor's covenants contained herein, Lender shall request Trustee to reconvey the Property and shall deliver this Deed of Trust and the Note to Trustee. Trustee shall reconvey the Property without warranty to the person or persons legally entitled thereto. Such person or persons shall pay Trustee's reasonable costs incurred in so reconveying the Property.

**Section 5.2 Rights Cumulative.** All rights, remedies, powers, and privileges and all liens, titles, and security interests herein expressly conferred are cumulative, and shall not be deemed to deprive Holder or Trustee of any other legal or equitable rights, remedies, powers, privileges, liens, titles, or security interests by or through judicial proceedings or otherwise appropriate to enforce the conditions, covenants, and terms of this Deed of Trust, the Note, and other security instruments.

**Section 5.3 Waiver.** Any and all covenants in this Deed of Trust may from time to time, by instrument in writing signed by Holder and delivered to Grantor, be waived to such extent and in such manner as Holder may desire, but no such waiver shall ever affect or impair Holder's rights, remedies, powers, privileges, liens, titles, and security interest hereunder, except to the extent so specifically stated in such written agreement. Neither the exercise of, nor the failure to exercise any option or remedy under the terms of this Deed of Trust shall be considered as a waiver of the right to exercise same, or any other option or remedy given herein.

**Section 5.4 Controlling Agreement.** All agreements between Grantor and Holder, whether now existing or hereafter arising and whether written or oral, are expressly limited so that in no event whatsoever, whether by reason of acceleration of the maturity of the Obligation or otherwise, shall the interest contracted for, charged, or received by Holder hereunder or otherwise exceed the maximum amount permissible under applicable law. If from any circumstances whatever fulfillment of any provision of this Deed of Trust or said Note at the time performance of such provision shall be due shall involve transcending the limit of validity prescribed by the usury statute or any other law, then ipso facto the obligation to be fulfilled shall be reduced to the limit of such validity so that in no event shall any exaction be possible under this Deed of Trust or under said Note that is in excess of the limit of such validity; but such obligation shall be fulfilled to the limit of such validity. If Holder shall ever receive anything of value deemed interest under applicable law which would apart from this provision be in excess of the maximum lawful amount, an amount which would have been excessive interest shall be applied to the reduction of the principal amount owing on the Obligation in inverse order of maturity and not to the payment of interest, or if such amount which would have been excessive interest exceeds the unpaid principal balance of the Obligation, such excess shall be refunded to Grantor, or to the maker of the Note or other evidence of indebtedness if other than Grantor. All interest paid or agreed to be paid to Holder shall, to the extent permitted by applicable law, be amortized, prorated, allocated, and spread throughout the full stated term (including any renewal or extension) of such indebtedness so that the amount of interest on account of such indebtedness does not exceed the maximum permitted by applicable law. The terms and provisions of this Section 5.4



shall control and supersede every other provisions of all existing and future agreements between Grantor, the maker of the Note or other evidence of indebtedness if other than Grantor, and Holder.

**Section 5.5 Effect of Transfer on Grantor's Liability.** If the ownership of the Property or any part thereof becomes vested in a person other than Grantor or in the event of a change in ownership of any Grantor other than an individual, Holder may, without notice to Grantor or Grantor's successors, deal with such successor or successors in interest with reference to this Deed of Trust and the Obligation, either by way of forbearance on the part of Holder, or extension of time of payment of the Obligation, or release of all or any part of the Property or any other property securing payment of the Obligation, or otherwise, without in any way modifying or affecting Holder's rights and liens hereunder or the liability of Grantor or any other party liable for payment of the Obligation, in whole or in part.

**Section 5.6 Waiver of Right to Marshal.** Grantor hereby waives all rights of marshaling in event of any foreclosure of the liens and security interests hereby created.

**Section 5.7 Condemnation Proceeds.** Holder shall be entitled to receive any and all sums which may be awarded or become payable to Grantor for the condemnation of the Property, or any part thereof, for public or quasipublic use, or by virtue of private sale in lieu thereof, and any sums which may be awarded or become payable to Grantor for damages caused by public works or construction on or near the Property. All such sums are hereby assigned to Holder, and Grantor shall, upon request of Holder, make, execute, acknowledge, and deliver any and all additional assignments and documents as may be necessary from time to time to enable Holder to collect and receipt for any such sums. Holder shall not be, under any circumstances, liable or responsible for failure to collect or exercise diligence in the collection of any of such sums. Any sums received by Holder in the event of condemnation shall be applied to installments on the Obligation in inverse order of maturity.

**Section 5.8 Insurance Proceeds.** The proceeds of any and all insurance upon the Property shall be collected by Holder, and Holder shall have the option, in Holder's sole discretion, to apply any proceeds so collected either to the restoration of the Property or to the liquidation of the Obligation.

**Section 5.9 Reserve for Taxes and Insurance Premiums.** At the request of Holder, Grantor shall create a fund or reserve for the payment of all insurance premiums, taxes, and assessments against or affecting The Property by paying to Holder, on the first day of each calendar month prior to the maturity of the note, a sum equal to the premiums that will next become due and payable on the hazard insurance policies covering the Property, or any part thereof, plus taxes and assessments next due on the Property, or any part thereof, as estimated by Holder, less all sums paid previously to Holder therefor, divided by the number of months to elapse before one month prior to the date when such premiums, taxes, and assessments will become due, such sums to be held by Holder, without interest, unless interest is required by applicable law, for the purposes of paying such premiums, taxes, and assessments. Any excess reserve shall, at the discretion of Holder, be credited by Holder on subsequent reserve payments or subsequent payments to be made on the Note by the maker thereof, and all deficiency shall be paid by Grantor to Holder on or before the date when such premiums, taxes, and assessments shall become delinquent. In the event there exists a deficiency in such fund or reserve at any time when taxes, assessments, or insurance premiums are due and payable, Holder may, but shall not be obligated to, advance the amount of such deficiency on behalf of the Grantor, and such amounts so advanced shall become a part of the Obligation, shall be immediately due and payable and shall bear interest at the rate provided in the Note from the date of such advance through and including



the date of repayment. Transfer of legal title to the Property shall automatically transfer the interest of Grantor in all sums deposited with Holder under the provisions hereof or otherwise. In the event that Holder does not request that such a fund be established, Grantor hereby agrees that he will promptly pay all premiums, taxes, and assessments when due, and will furnish to Holder proof of payment within 45 days of the due date by submitting canceled checks along with the statement concerning such taxes, premiums, or assessments.

**Section 5.10 Right to Accelerate Upon Transfer.** If Grantor shall sell, convey, assign, or transfer all or any part of the Property or any interest therein or any beneficial interest in the Grantor, Holder may at Holder's option, declare the Obligation to be immediately due and payable, which option may be exercised at any time following such sale, conveyance, assignment, or transfer. Holder may in its sole discretion and at Grantor's request decide not to exercise said option in which event Holder's forbearance may be predicated on such terms and conditions as Holder may in its sole discretion require, including but not limited to Holder's approval of the transferee's credit worthiness and management ability, and the execution and delivery to Holder by transferee, prior to the sale, transfer, assignment, or conveyance of a written assumption agreement containing such terms as Holder may require, including but not limited to, a payment of a part of the principal amount of the Obligation, the payment of an assumption fee, a modification of the term of the Obligation, and such other terms as Holder may require. Should the Property be sold, traded, transferred, assigned, exchanged, or otherwise disposed of without the prior written consent of Holder and payment of any portion of the Obligation is thereafter accepted by the Holder such acceptance shall not be deemed a waiver of the requirement of Holder's consent in writing thereto or with respect to any other sale, trade, transfer, assignment, exchange, or other disposition.

**Section 5.11 Prohibition Against Subordinate Financing.** If Grantor without the prior written consent of Holder, executes or delivers any pledge, security agreement, mortgage, or deed of trust covering all or any portion of the Property (hereafter called "Subordinate Mortgage") Holder may, at Holder's option, which option may be exercised at any time following such pledge, security agreement, mortgage, or deed of trust, declare the Obligation to be immediately due and payable. In the event of consent by Holder to the foregoing or in the event the foregoing prohibition is determined by a court of competent jurisdiction to be unenforceable under the provisions of any applicable law, Grantor will not execute or deliver any Subordinate Mortgage unless there shall have been delivered to Holder not less than ten (10) days prior to the date thereof a copy thereof which shall contain express covenants to the effect: (a) that the Subordinate Mortgage is in all respects unconditionally subject and subordinate to the lien, security interest, and assignment evidenced by this Deed of Trust and each term and provision hereof; (b) that if any action or proceeding shall be instituted to foreclose the Subordinate Mortgage (regardless of whether the same is a judicial proceeding or pursuant to a power of sale contained therein), no tenant of any portion of the Property will be named as a party defendant, or will any action be taken with respect to the Property which would terminate any occupancy or tenancy of the Property without the prior written consent of Holder; (c) that the rents and profits, if collected through a receiver or by the Holder of the Subordinate Mortgage, shall be applied first to the obligations secured by this Deed of Trust, including principal and interest due and owing on or to become due and owing on the Note and the other indebtedness secured hereby and then to the payment of maintenance, operating charges, taxes, assessments, and disbursements incurred in connection with the ownership, operation, and maintenance of the Property; and (d) that if any action or proceeding shall be brought to foreclose the Subordinate Mortgage, (regardless of whether the same is a judicial proceeding or pursuant to a power of sale contained therein), written notice of the commencement thereof will be given to Holder contemporaneously with the commencement of such action or proceeding.



**Section 5.12 Subrogation.** It is understood and agreed that the proceeds of the Note, to the extent the same are utilized to renew or extend any indebtedness or take up any outstanding liens against the Property, or any portion thereof, have been advanced by Holder at Grantor's request and upon Grantor's representation that such amounts are due and payable. Holder shall be subrogated to any and all rights, remedies, powers, privileges, liens, titles, and security interests owned or claimed by any owner or holder of said outstanding indebtedness or lien, however remote, regardless of whether said indebtedness or lien is acquired by assignment or is released by the holder thereof upon payment.

**Section 5.13 Covenant to Perform.** Grantor and each and every subsequent owner of the Property, or any part thereof, covenants and agrees that Grantor will perform or cause to be performed, each and every condition, term, provision, and covenant of this Deed of Trust, except that Grantor shall have no duty to pay the indebtedness evidenced by the Note except in accordance with the terms of the Note and all renewals and extensions thereof, and this Deed of Trust or in accordance with the terms of the transfer to Grantor. Further, Grantor agrees to repay immediately upon written notice to Grantor all sums expended or advanced hereunder by or on behalf of Holder or Trustee, with interest from the date of such advance or expenditure at the rate of ten percent (10%) per annum until paid, and the repayment thereof shall be secured hereby. Failure to repay such expenditure or advance and interest thereon within ten (10) days of the mailing of such notice will, at Holder's option, constitute an event of default hereunder, or, Holder may, at its option, commence an action against Grantor for the recovery of such expenditure or advance and interest thereon, and in such event Grantor agrees to pay, in addition to the amount of such expenditure or advance, all costs and expenses incurred in such action, together with a reasonable attorney's fee.

**Section 5.14 Hazardous Waste Warranty and Representation of Grantor.** Grantor represents and warrants that after making all appropriate inquiries, the following statements are true:

- (1) No industrial activities that could have resulted in environmental contamination of the Property have occurred on the Property to Grantor's knowledge, including without limitation, storage, treatment or disposal of hazardous substances;
- (2) No report, analysis, study or other document identifies any harmful or friable asbestos or hazardous contaminants on the Property to Grantor's knowledge; and
- (3) the Property contains no harmful or friable asbestos, hazardous wastes or other hazardous substances to Grantor's knowledge;

At its sole cost and expense Grantor shall comply with all federal, state and local laws, regulations and orders with respect to the discharge and removal of hazardous or toxic substances, pay immediately when due the cost of removal of any such substances, and keep the Property free of any lien imposed pursuant to such laws, regulation and orders. In addition, Grantor shall not install or permit to be installed in the Property any friable asbestos or any substance containing asbestos and deemed hazardous by applicable federal, state and local laws, regulations and orders. In addition to the remedies set forth elsewhere in the Deed of Trust or other collateral documents concerning the obligation herein secured as to default by Grantor, Holder may cause the Property to be freed from the hazardous wastes, contaminants or asbestos, and in such event, the cost of the removal shall be secured by this Deed of Trust, shall be payable by Grantor on demand and shall bear interest at the default interest rate provided in the Promissory Note secured by this Deed of Trust from the date advanced until paid. Grantor shall give to Holder and its agents and



employees access to the Property for such purpose, and hereby grant to Holder a license to remove the hazardous wastes, contaminants or asbestos from the Property to Grantor's knowledge. Grantor shall indemnify, defend and hold Holder harmless from and against any and all liability, loss or damage (including, without limitations, reasonable attorneys' fees and costs incurred in the investigation, defense and settlement of claims) that Holder may incur as a result of or in connection with the assertion against Grantor of any claim relating to the presence or removal of any hazardous wastes, contaminants or asbestos from the Property, or relating to compliance with any applicable federal, state or local laws, regulations or orders relating thereto.

Grantor warrants and represents that to Grantor's knowledge there are no toxic wastes or hazardous substances in the building materials used to construct the improvements located on the Property and that Grantor shall indemnify and hold Holder and Trustee harmless from any and all claims, costs or expenses (including defense costs and reasonable attorneys' fees) arising out of, relating to or in any manner connection with the breach of any such warranty or representation. Further, Grantor shall indemnify and hold Holder and Trustee harmless from any and all claims, costs or expenses (including defense costs and reasonable attorneys' fees) arising out of, relating to, or in any manner connected with any toxic wastes, brought onto or made on the Property by Grantor, its agents, employees, invitees, partners, or tenants, their agents, employees or invitees. Grantor agrees that any violation of Grantor's warranties in this paragraph will entitle Holder to specific performance or any other remedy available at law and parties agree that any applicable statute of limitations is hereby tolled from date of execution thereof until Holder has actual knowledge of any such violation of warranty.

**Section 5.15 Notice.** Except as otherwise provided herein, wherever this Deed of Trust requires notice to Grantor, such notice shall be deemed to have been given on the day it is deposited in the United States mail in a post paid wrapper addressed to Grantor at the address stated on the first page hereof, or at such other address as Grantor may designate by notice in writing and previously actually received by Holder.

**Section 5.16 Enforceability.** If the rights and liens created by this Deed of Trust shall be held by a court of competent jurisdiction to be invalid or unenforceable as to any part of the Obligation, the unsecured portion of the Obligation shall be completely paid prior to the payment of the remaining and secured portion of the Obligation, and all payments made on the Obligation shall be considered to have been paid on and applied first to the complete payment of the unsecured portion of the Obligation.

**Section 5.17 Successors and Assigns.** This Deed of Trust is binding upon Grantor and Grantor's successors, and shall inure to the benefit of Holder, and its successors and assigns, and the provisions hereof shall be covenants running with the Land. The duties, covenants, conditions, obligations, and warranties of Grantor in this Deed of Trust shall be joint and several obligations of Grantor and Grantor's successors.

**Section 5.18 Counterparts.** This Deed of Trust may be simultaneously executed in a number of identical counterparts, each of which, for all purposes, shall be deemed an original. If any Grantor is a corporation, this instrument is executed, sealed, and attested by Grantor's officers hereunto duly authorized.

**Section 5.19 Financing Statement.** This Deed of Trust is intended to be a financing statement filed as a fixture filing with respect to the Accessories and the goods described at the beginning of this Deed of Trust which are or are to become fixtures relating to the Land. The



address of Grantor (Debtor) is set forth on the first page hereof and the address of Holder (Secured Party) is set forth in Section 1.1 hereof. This Deed of Trust is to be filed for record in the real property records of the county clerk of the county or counties where the Land is located. Grantor is the record owner of the Land. A carbon, photographic, or other reproduction of this Deed of Trust or of a financing statement pursuant hereto is sufficient as a financing statement.

**Section 5.20 Partial Invalidity.** If the lien of this Deed of Trust is invalid or unenforceable as to any part of the debt, or if the lien is invalid or unenforceable as to any part of the Land, the unsecured or partially secured portion of the debt shall be completely paid prior to the payment of the remaining and secured or partially secured portion of the debt, and all payments made on the debt, whether voluntary or under foreclosure or other enforcement action or procedure, shall be considered to have been first paid on and applied to the full payment of that portion of the debt which is not secured or fully secured by the lien of this Deed of Trust. If any of the provisions hereof shall be determined to contravene or be invalid under the laws of the State of Washington, such contravention or invalidity shall not invalidate any other provisions of this agreement, but it shall be construed as if not containing the particular provision or provisions held to be invalid, and all rights and obligations of the parties shall be construed and enforced accordingly.

**Section 5.22 Use of Property.** The Property is not used principally for agricultural or farming purposes.

**Section 5.23 Federal Law Application.** The loan secured by this Deed of Trust ("Loan") was made under a SBA nationwide program which uses tax dollars to assist small business owners. If the United States is seeking to enforce this document, then under SBA regulation:

- (a) When SBA is the holder of the Note, this document and all documents evidencing or securing the Loan will be construed in accordance with federal law.
- (b) Holder or SBA may use local or state procedures for purposes such as filing paper, recording documents, giving notice, foreclosing liens, and other purposes. By using these procedures, SBA does not waive any federal immunity from local or state control, penalty, tax or liability. Neither Grantor nor any other obligor of the Obligation may claim or assert against SBA any local or state law to deny any obligation of Grantor or any obligor of the Obligation, or defeat any claims of SBA with respect to the Loan.
- (c) Any clause in this Deed of Trust requiring arbitration is not enforceable when SBA is the holder of the Note.

**EXECUTED** as of the date first above written.

  
Yih-Min Jan

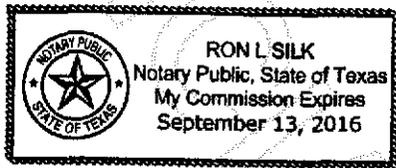
  
Chung-Hua Jan



STATE OF TEXAS  
COUNTY OF Dallas

BEFORE ME, the undersigned, a Notary Public in and for the said County and State, on this day personally appeared **Yih-Min Jan and Chung-Hua Jan**, known to me to be the persons whose names are subscribed to the foregoing document and acknowledged to me that they executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 31 day of January, 2014.



Ron L. Silk  
NOTARY PUBLIC, State of Texas

**AFTER RECORDING RETURN TO:**

Comerica Bank  
39200 West Six Mile Road  
Livonia, Michigan 48152  
Attn: National Documentation Services  
Mail Code 7578

**PREPARED IN THE LAW OFFICE OF:**

SETTLEPOU  
3333 Lee Parkway  
Eighth Floor  
Dallas, Texas 75219

DEED OF TRUST (Skagit County)



PAGE 16