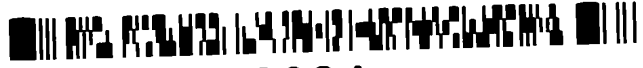


RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

Laura Minton Breckenridge
Skagit Law Group, PLLC
P.O. Box 336
Mount Vernon, WA 98273



201905240084

05/24/2019 12:48 PM Pages: 1 of 19 Fees: \$117.00
Skagit County Auditor

Land Title and Escrow No. 01-171071-OE ✓

The information contained in this boxed section is for recording purposes only pursuant to RCW 65.04, and is not to be relied upon for any other purpose, and shall not affect the intent of or any warranty contained in the document itself.

Document Title: MORTGAGE
Grantor: ELIZABETH KOUDAL, LLC, a Washington limited liability company
Grantee: SUSAN M. MARTIN, a married woman as to her sole and separate property, and HERBERT S. CRAM, a married man as to his sole and separate property
Abbreviated Legal: Ptns GL1, GL2, GL4, GL5, and GL7 in 1-33-2 E W.M.; Ptn GL4 in 6-33-3 E W.M.; Ptn SE SE in 36-34-2 E W.M.; La Conner Tidelands 1st (1-33-2 E W.M.) Tr 5 & 6, PL 19; and La Conner Tidelands 1st (6-33-2 E W.M.) Tr 1, PL 20.
Parcel Numbers: P15194, P15172, P15176, P15478, P20873, P20875, P20879, P74512, and P74513
Reference Number(s) of Documents Affected: N/A
Full Legal Description set forth in Exhibit A of Document.

MORTGAGE

THIS MORTGAGE ("Mortgage") is made as of the ~~24~~²⁴ day of May 2019, by Elizabeth Koudal, LLC, a Washington limited liability company ("Grantor"), whose address is 12275 Valley Road, Mount Vernon, WA 98273, and Susan M. Martin, a married woman as to her sole and separate property, whose address is 35380 N. 92nd Place, Scottsdale, AZ 85262, and Herbert S. Cram, a married man as to his sole and separate property (collectively "Lender"), whose address is 506 Colville Way, La Conner, WA 98259.

GRANTOR HEREBY MORTGAGES AND CONVEYS:

A. To Lender all of its right, title, and interest in and to the real property located in the County of Skagit, State of Washington, as more particularly described in **Exhibit A** attached hereto, which by this reference is incorporated herein, including all appurtenances, easements, and rights thereto, or used in connection with the real property, together with all right, title, and interest that Grantor now has or may hereafter acquire in the following:

1. All income, rents, revenues, profits, and proceeds from the real property, subject, however, to the right, power, and authority hereinafter conferred upon Lender, or reserved to Grantor, to collect and apply such income, rents, royalties, revenues, issues, profits, and proceeds.

2. All deposits or other security or advanced payments, including, without limiting the generality of the foregoing, rental payments, made by or on behalf of Grantor to others with respect to: (i) utility service for all or any part of the real property and any improvements; (ii) insurance policies relating to the real property or any improvements; (iii) cleaning, maintenance, repair, or similar services for the real property or any improvements; and (iv) rental of equipment used in the operation of any part of the real property or any improvements.

3. All fixtures affixed to the real property, including all buildings, structures, and improvements of any kind and description and all fixtures and improvements and other property now or hereafter placed, attached, affixed, or installed in the buildings, structures, or improvements on the real property, and all replacements, repairs, additions, or proceeds thereto, but excluding the movable trade fixtures owned by tenants leasing space.

4. All oil, gas, or minerals related to such real property before or after extraction and all damages, royalties, and revenue of every kind, nature, and description whatsoever that Grantor may be entitled to receive, with the right in Lender to receive the interest and apply the same to the indebtedness secured by this Mortgage after any default under it, and Lender shall have the right to demand, sue for and recover any such payments, but shall not be required to do so.

5. All proceeds and claims arising on account of any damage to or taking of the real property or, any fixtures incorporated in the real property, improvements or any part thereof, and all causes of action and recoveries for any loss or diminution in the value of such real property or fixtures, including the proceeds of any policy of insurance covering the improvements or the proceeds of any condemnation action or transfer in lieu of condemnation.

All of the property mortgaged or conveyed, or intended to be mortgaged or conveyed, in Paragraph A above is referred to in this Agreement as the "Property." The parties intend that the definition of Property is to be broadly construed and in the case of doubt as to whether a particular item is included in the definition of Property, the doubt should be resolved in favor of inclusion.

TO HAVE AND TO HOLD the Property bargained and described, together with the lands, leasehold interests in the land, privileges, water rights, and appurtenances thereto belonging, or in any way appertaining to, and the reversion and reversions, rents, and profits thereof, and all of the estate, right, title, claim, and demands whatsoever of Grantor, either in law or in equity, of, in and to the Property.

FOR THE PURPOSE OF SECURING:

1. Payment of any and all indebtedness and obligations arising from time to time under that certain Promissory Note dated May 24th 2019 (the "Note"), evidencing a loan from Lender to Grantor in the principal amount of Six Hundred Twenty-Five Thousand and No/100 Dollars (\$625,000.00) (the "Loan"), together with interest thereon and any modifications,

extensions, or renewals thereof, whether or not such modification, extension, or renewal is evidenced by a new or additional promissory note or notes.

2. Performance of each agreement of Grantor set forth in this Mortgage for the purpose of securing any indebtedness secured by this Mortgage.

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

ARTICLE I - COVENANTS

1.1 Payment of Note and Performance of Mortgage. Grantor will timely pay any and all amounts owed under the Note according to its terms, and will perform and comply with each and every term, covenant, and condition of this Mortgage and of the Note.

1.2 Warranty of Title. Grantor represents and warrants that at the time of the delivery of this Mortgage: (i) Grantor has fee simple of the Property and owns outright every part of the Property; (ii) there are no liens or encumbrances against or upon the Property other than those permitted by Lender on its mortgagee's policy of title insurance insuring the first position lien of this Mortgage (the "Permitted Encumbrances"), and none will be created by Grantor during the term of this Mortgage, except as have been disclosed to Lender in writing and approved by Lender in advance and in writing and upon such terms and conditions as may be satisfactory to Lender; and (iii) Grantor has the right to grant this Mortgage.

1.3 Taxes, Liens and Other Charges. Grantor shall pay when due:

1.3.1 All taxes, assessments, and other governmental charges affecting the Property, including any accrued interest, cost, or penalty, and will submit receipts to Lender at least ten (10) days before delinquency upon Lender's request;

1.3.2 All encumbrances (including any debt secured by deeds of trust), ground rents, liens, or charges, with interest, on the Property or any part thereof, and all costs and fees related thereto (provided that nothing in this Paragraph 1.3.2 shall be construed as a consent by Lender to any such encumbrances, ground rents, liens, or charges). Grantor shall have the right to contest the amount or validity, in whole or in part, of any such taxes, assessments, encumbrances, liens, or charges payable under Paragraph 1.3.1, or this Paragraph 1.3.2, by appropriate proceedings conducted in good faith and with due diligence, in which event, Grantor, upon prior written notice to Lender, may postpone or defer payment of such encumbrance, lien, or charge, if and so long as:

(1) such proceedings shall operate to prevent the collection of the encumbrance, lien, or charge;

(2) neither the Property nor any part thereof would by reason of such postponement or deferment be in danger of being forfeited or lost; and

(3) Grantor, before the date such encumbrance, lien, or charge becomes delinquent, gives such reasonable security as may be requested by Lender to insure payment of such encumbrance, lien, or charge and prevent any forfeiture or loss of the Property or any part thereof;

1.3.3 All charges for utilities or services, including, but not limited to, electricity, gas, garbage, sewer, and water; and

1.3.4 All costs, fees and expenses of this Mortgage, including cost of evidence of title.

1.4 Insurance. Grantor will at all times provide, maintain, and keep in force commercial general liability insurance against claims for bodily injury or death or for damage or injury to property occurring upon, in, or about the Property, in such amount as may be reasonably required by Lender but in no event less than an aggregate amount of One Million and No/100 Dollars (\$1,000,000.00), with an occurrence limit of not less than One Million and No/100 Dollars (\$1,000,000.00).

Grantor shall furnish Lender with certificates evidencing each policy required to be provided by Grantor hereunder. All policies for such insurance shall be issued by companies reasonably approved by Lender.

1.5 Casualty. Grantor hereby assigns to Lender all insurance proceeds that it may be entitled to receive, and such proceeds shall be delivered to and held by Lender to be applied as mutually agreed by Grantor and Lender to the reduction of any indebtedness secured by this Mortgage. If the proceeds are sufficient to pay in full the indebtedness and other sums secured hereby, then any excess proceeds shall be paid over to Grantor.

In the event of the foreclosure of this Mortgage, or other transfer of the title to the Property in extinguishment of the Mortgage, whether in whole or in part, of the indebtedness secured by the Mortgage, all right, title and interest of Grantor in and to any insurance policy, or premiums or payments in satisfaction of claims or any other rights thereunder then in force shall pass to the purchaser or grantee notwithstanding the amount of any bid at such foreclosure sale.

Grantor shall give prompt written notice to Lender reporting any casualty to the Property.

1.6 Condemnation. If the Property, or any part thereof, is taken or damaged by reason of any public improvement, condemnation proceeding, or in any other manner, Lender shall be entitled to all compensation, awards and other payments or relief up to the amount of the obligation secured by this Mortgage, and shall, be entitled, at its option, to commence, appear in, and prosecute in its own name any action or proceeding, or to make any compromise or settlement in connection with such taking or damage. All such compensation, awards,

damages, rights of action and proceeds (the "Proceeds") are hereby assigned to Lender up to the amount of the obligation secured by this Mortgage.

Nothing contained herein shall prevent the accrual of interest as provided in the Note until such Proceeds are actually received by Lender and applied to any amounts owed under the Note.

1.7 Care of the Property. Grantor shall:

1.7.1 Keep the Property in good condition and repair and not commit or permit any waste or deterioration of the Property or suffer any act or occurrence that would impair the security for the debt secured hereby;

1.7.2 Not remove, demolish, or substantially alter any portion of the Property or permit or suffer such to be done, without Lender's prior written consent (except for demolition or construction of tenant improvements and such alterations as may be required by laws, ordinances or regulations of governmental authorities);

1.7.3 Comply with all local, state, and federal laws, ordinances, rules, regulations, and orders of all local, state, and federal governmental authorities now or hereafter affecting the Property or requiring any alterations or improvements to be made thereon, and perform all of its obligations under any covenant, condition, restriction, or agreement of record affecting the Property, and deliver to Lender copies of any permits, approvals or disapprovals issued by any governmental authority relating to the Property within ten (10) days of Grantor's receipt;

1.7.4 Not knowingly commit or permit any act to be done in, upon, or to the Property in violation of any law or ordinance or any covenant, condition, or restriction affecting the Property;

1.7.5 Do any and all acts which, from the character or use of the Property, may be reasonably necessary to protect and preserve the security of Lender;

1.7.6 Perform all of Grantor's obligations or covenants under any encumbrance affecting the Property, including without limitation, leases and other agreements relating to or affecting the Property;

1.7.7 Not create or permit any lien or encumbrance against or affecting the Property, except the Permitted Encumbrances, without Lender's prior written consent;

1.7.8 Not take, or permit to be taken, any actions that might invalidate any insurance carried on the Property;

1.7.9 Not permit any new building or additions to existing structures to be erected on the Property without the prior written consent of Lender, and not construct any

improvements on the Property or undertake any site development work unless approved by Lender unless such work is in the ordinary course of Grantor's business, which consent shall not be unreasonably withheld. Nothing in this Mortgage shall prevent the Grantor from farming the Property;

1.7.10 Not initiate or acquiesce in any change in the use or nature of the occupancy of the Property, unless required by any governmental agency, without the prior written consent of Lender, which consent shall not be unreasonably withheld; and

1.7.11 Promptly notify Lender of any litigation pending or, to Grantor's knowledge, threatened against Grantor, the Property, or Borrower, whether or not such amount is covered by insurance.

1.8 Leases and Other Agreements Affecting the Property; Assignment. Grantor will fully and promptly observe, perform, and satisfy each obligation, condition, covenant, and restriction affecting the Property or imposed upon it under any agreement between Grantor and a third party relating to the Property, including, without limitation, any leases or rental agreements for any portion of the Property (the "Leases") and any contracts relating to the Property (the "Contracts"), so that there will be no default under the Leases and Contracts and so that the persons obligated shall be, and remain at all times, obligated to perform under the Leases and Contracts. All right, title, and interest of Grantor in the Leases and the Contracts are hereby assigned to Lender as further security for the security. Grantor expressly agrees that it is the intention of Grantor and Lender that the assignment is absolute and entitles Lender to collect, subject to the license granted in Paragraph 2.2 below, Rents (as defined in Paragraph 2.1) due under the Leases without the taking of any additional steps by Lender (including, but not limited to, the taking of possession of the Property or the appointment of a receiver). Upon an Event of Default, notice of such assignment shall be given to the tenant or tenants as may be required by Lender.

1.9 Expenses.

1.9.1 Upon an Event of Default, Lender shall have the right to employ an attorney in connection with its rights under the Note and Grantor shall pay all reasonable attorneys' fees, costs and expenses, including expenses of retaking, holding, preparing for sale, or selling in connection with any action or actions that may be brought for the foreclosure of this Mortgage, possession of the Property, the protection of or the defense of the priority of the lien provided for hereby, the appointment of a receiver, or the enforcement of any and all covenants or rights contained in or secured by this Mortgage.

1.9.2 Grantor will pay, within thirty (30) days of Lender's written demand, all sums expended or expense incurred by Lender, including, without limitation, reasonable attorneys' fees, under any of the terms of this Mortgage.

1.10 Subrogation. Lender will be subrogated for further security to the lien of and to all rights of any lender, mortgagee, or lienholder under any encumbrance, whether or not

released of record, paid out of the proceeds of the indebtedness secured by this Mortgage or advanced pursuant to its terms.

1.11 Inspection of Property. After providing reasonable advance written notice to Grantor, Lender is authorized to enter the Property for the purpose of inspecting the same, determining Grantor's compliance with the provisions of this Mortgage, and for the purpose of performing any of the acts it is authorized to perform under the terms of this Mortgage. Grantor agrees to cooperate with Lender to facilitate such inspections. Grantor and its managers, members, employees, and agents are entitled to accompany the Lender on their inspection of the Property.

1.12 Suits Affecting Property. Grantor agrees to appear in and defend any action or proceeding purporting to affect the Property or this Mortgage. Grantor agrees to notify Lender before it commences any action or proceeding relating to any part of the Property or the security of this Mortgage (except actions to terminate month-to-month tenancies or evict tenants). Grantor agrees to pay all reasonable costs and expenses, including reasonable attorneys' fees in any action or proceeding in which Lender may appear or be made a party, including, but not limited to, foreclosure or other proceeding commenced by those claiming a right to any part of the Property under any prior or subordinate liens, any forfeiture proceeding, in any action to partition or condemn all or part of the Property, and in any action concerning the disposition or availability of insurance proceeds relating to the Property, whether or not such proceedings are pursued to final judgment. Grantor hereby assigns to Lender all proceeds payable by third parties arising from claims or events of impairment or loss to the Property, and agrees that Lender may require that such amount be paid directly to Lender.

1.13 Lender's Right to Defend Action and Cure Certain Defaults. Lender shall have the right to appear in, and defend, any action or proceeding at law or in equity or in bankruptcy purporting to affect the Property or any security for the obligations secured by this Mortgage. Lender shall be allowed and paid all Lender's costs, charges, and expenses, including cost of evidence of title and attorneys' fees incurred in such action or proceeding in which Lender may appear.

If Grantor fails to make any payment or to do any act as provided under this Mortgage, or if Grantor allows, in violation of this Mortgage, any lien, encumbrance, or charge against the Property and Grantor fails to cure such default within thirty (30) days of Lender's delivery of written notice to Grantor then Lender, but without the obligation to do so and without releasing Grantor from any obligation under this Mortgage, shall have the right to: i) make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Lender being authorized to enter upon the Property for such purposes; ii) commence, appear in, and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Lender; iii) pay, purchase, contest, or compromise any encumbrance, charge, or lien that in the judgment of either appears to be prior or superior hereto; and iv) in exercising any such power, incur any liability, expend whatever amounts in Lender's absolute discretion it may deem necessary, including reasonable attorneys' fees. Grantor hereby agrees to pay, within thirty (30) days of written demand, all of Lender's costs, charges, expenses, and amounts

referred to above in this Paragraph 1.13, including the cost of reasonable attorneys' fees incurred in such action or proceeding in which Lender may appear. All costs, charges, and expenses so incurred, together with interest, shall be secured by the lien of this Mortgage.

1.14 Hazardous Materials.

1.14.1 The term "Environmental Liability" shall mean any claim, demand, obligation, cause of action, allegation, order, violation, damage, injury, judgment, penalty or fine, cost of Enforcement or cost of Remedial Action, or any other reasonable cost or expense, including reasonable attorneys' fees and disbursements, resulting from the violation or alleged violation of any Environmental Law or from any Enforcement or Remedial Action. The term "Environmental Law" or "Environmental Laws" means and includes, without limitation, any federal, state or local law, statute, regulation or ordinance pertaining to health, industrial hygiene or the environmental or ecological conditions on, under or about the Property, including without limitation each of the following: the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601 et seq.; the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. § 6901 et seq.; the Toxic Substance Control Act, as amended, 15 U.S.C. § 2601 et seq.; the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.; the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq.; the Federal Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq.; the Washington Model Toxics Control Act, RCW Ch. 70.105D, the Washington Hazardous Waste Management Act, RCW Ch. 70.105; the Washington Water Pollution Control Act, RCW Ch. 90.48; the Washington Clean Air Act, RCW Ch. 70.94; the Washington Industrial Safety and Health Act, RCW Ch. 49.17; and the Washington State Environmental Policy Act, RCW Ch. 43.21C, and the rules, regulations and ordinances of the U.S. Environmental Protection Agency, the Washington Department of Ecology and of all other agencies, boards, commissions and other governmental bodies and officers having jurisdiction over the Property or the use or operation thereof. The term "Enforcement or Remedial Action" shall mean any step taken by any person, agency or entity to enforce compliance with or to collect or impose penalties, fines, or other sanctions provided by any Environmental Law. The term "Hazardous Material" means and includes, without limitation: (i) those substances included within the definitions of "hazardous substances," "hazardous materials," "toxic substances," "pollutants," "hazardous wastes," or "solid waste" in any Environmental Laws; (ii) those substances listed in the U.S. Department of Transportation Table or amendments thereto (49 CFR 172.101) or by the U.S. Environmental Protection Agency (or any successor agency) as hazardous substances (40 CFR Part 302 and any amendments thereto); (iii) those other substances, materials and wastes which are or become regulated under any applicable federal, state or local law, regulation or ordinance or by any federal, state or local governmental agency, board, commission or other governmental body, or which are or become classified as hazardous or toxic by any such law, regulation or ordinance; and (iv) any material, waste or substance which is any of the following: (a) asbestos; (b) polychlorinated biphenyl; (c) designated or listed as a "hazardous substance" pursuant to Paragraphs 307 or 311 of the Clean Water Act (33 U.S.C. § 1251 et seq.); (d) explosive; (e) radioactive; or (f) a petroleum product.

1.14.2 Grantor shall not cause or permit the Property to be in violation of, any

Environmental Law. If Hazardous Materials are disposed of on the Property, which under any Environmental Law require any special handling, collection, storage, treatment, or disposal, Grantor shall commence with diligence, within thirty (30) days of notice thereof, to take all actions at its sole expense necessary to comply with any Environmental Laws. Grantor shall not use, generate, manufacture, treat, store, allow to remain, or dispose of on, under, or about the Property or transport to or from the Property any Hazardous Materials in any manner or quantity that violates an Environmental Law. Grantor shall immediately advise Lender in writing of: (i) any and all enforcement, cleanup, remedial, removal, or other governmental or regulatory actions instituted, completed, or threatened pursuant to any Environmental Law affecting the Property; (ii) all claims made or threatened by any third party against Grantor or the Property relating to damage, contribution, cost recovery compensation, loss, or injury resulting from any Environmental Liability; and (iii) Grantor's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Property that could cause the Property or any part thereof to be subject to any restrictions on the ownership, occupancy, transferability, or use of the Property under any Environmental Laws. Lender shall have the right to join and participate in, as a party if they so elect, any legal proceedings or actions initiated in connection with any Environmental Liability and to have its attorney's fees in connection therewith paid by Grantor. Except in the case of emergencies (which shall be deemed to exist for a maximum of 24 hours), without Lender's prior written consent, which shall not be unreasonably withheld, Grantor shall not take any remedial action in response to the presence of any Hazardous Material on, under or about the Property.

1.14.3 Grantor shall not be in default of the provisions of this Paragraph 1.16 if Grantor uses, stores, or releases substances in the ordinary course of agricultural practices by Grantor made in accordance with established standards.

1.15 No Further Encumbrances. As an express condition of Lender making the Loan secured by this Mortgage, Grantor shall not further encumber, pledge, mortgage, hypothecate, place any lien, charge, or claim upon, or otherwise give as security the Property, or any interest therein, nor cause or allow by operation of law the encumbrance of the Property, or any interest therein, without the prior written consent of the Lender. Encumbrance of the Property contrary to the provisions of this Section shall constitute a default and Lender may, at Lender's option, declare the entire balance of principal and interest immediately due and payable, whether the same be created by Grantor or an unaffiliated third party asserting a judgment lien, mechanic's or supplier's lien, or any other type of encumbrance or title defect.

1.15.1 No Conveyances. The Property described in this Mortgage may not be sold, assigned, or transferred without the Lender's prior written consent. Upon breach of this Section, Lender may declare all sums due under the loan documents immediately due and payable and shall be entitled to pursue its default remedies set forth herein.

ARTICLE II - ASSIGNMENT OF RENTS

2.1 Assignment of Rents. As security for the Loan, Grantor hereby absolutely and unconditionally assigns and transfers to Lender all the income, rents, royalties, revenue, profits,

and proceeds (collectively the “Rents”) of the Property, whether now due, past due, or to become due, and hereby gives to and confers upon Lender the right, power, and authority to collect the Rents. Grantor irrevocably appoints Lender its true and lawful attorney at the option of Lender at any time, either by themselves, through an agent or a receiver, to demand, receive, and enforce payment, to give receipts, releases, and satisfactions, and to sue, either in the name of Grantor or in the name of Lender, for all the Rents. It is agreed that neither the foregoing assignment of Rents to Lender, nor the exercise by Lender of any of its rights or remedies under this Paragraph 2.1 or under Paragraph 2.2, nor the appointment of a receiver or possession of the Property by a receiver shall make Lender a “mortgagee-in-possession” or otherwise responsible or liable in any manner with respect to the Property or the use, occupancy or enjoyment or operation of all or any portion thereof, unless and until Lender, in person, assumes actual possession of the Property. Nothing herein shall require Lender to have a receiver appointed to collect any Rents, but Lender shall be entitled to such appointment at its option in accordance with Paragraph 2.2 below. This assignment of Rents is intended to be specific and perfected upon recording as provided for in RCW 7.28.230.

2.2 License to Collect. Notwithstanding anything to the contrary in this Mortgage, so long as no Event of Default (as defined below) exists, Grantor shall have a license to collect all Rents and to retain and use such Rents. Upon any occurrence of an Event of Default under this Mortgage, such license shall be revoked upon prior written notice to Grantor from Lender and all rights shall revert to Lender who then shall have the right to exercise all of their rights as absolute owner of the Leases and Rents. Grantor agrees that payments made by tenants or occupants to Lender shall, as to such tenants, be considered as though made to Grantor and in discharge of tenants’ obligations to Grantor to the extent of such payments. Nothing in this Mortgage shall be construed as obliging Lender to perform any of Grantor’s covenants under any lease or rental agreement. Grantor shall execute and deliver to Lender, upon demand, any further or supplemental assignments deemed necessary by Lender in order to further carry out and confirm the intentions of this Paragraph 2.2 and upon failure of the Grantor to so comply, Lender shall have the right to, at its option, in addition to any other rights or remedies, declare all obligations secured by this Mortgage to be immediately due and payable.

ARTICLE III - DEFAULTS AND REMEDIES

3.1 Events of Default. If any of the following events shall occur (“Events of Default”):

3.1.1 Default in payment when due of any indebtedness owed under the Note, subject to any applicable notice or cure periods whether provided in this Mortgage and/or the Note; or

3.1.2 Failure by Grantor to comply with any of the covenants, terms, conditions, restrictions or agreements contained in this Mortgage or the Note, except a failure to pay money as required in subparagraph 3.1.1 above or a default under subparagraphs 3.1.3 through 3.1.7 below; or

3.1.3 A default occurs under the Note or this Mortgage (after the expiration of any applicable notice or cure periods); or

3.1.4 Grantor applies for or consents to the appointment of a receiver or trustee for it or any portion of the Property, or if such receiver or trustee is appointed for Grantor or the Property, or Grantor makes an assignment for the benefit of creditors, or Grantor admits in writing its inability to pay its debts as they become due, or Grantor becomes insolvent, or a petition is filed by Grantor pursuant to any of the provisions of the United States Bankruptcy Code, as amended, and such breach is not cured within thirty (30) days of Lender's delivery of written notice to Grantor; or

3.1.5 A petition is filed against Grantor pursuant to any of the provisions of the United States Bankruptcy Code, as amended, or there is an attachment or sequestration of any of the property of Grantor and the same is not discharged or bonded within sixty (60) days; or

3.1.6 Any representation or disclosure made by Grantor to Lender in the Note proves to be materially false on the date when such representation or disclosure was made; or

3.1.7 A transfer or encumbrance of the Property in violation of Paragraph 1.15 hereof occurs.

Notwithstanding the foregoing, in the case of a default specified in subparagraph 3.1.2 above, if such default is susceptible of cure by Grantor, Lender shall not exercise any such remedies unless Grantor fails to cure such default within thirty (30) days after written notice from Lender; provided that, if such default is of such a nature that it cannot reasonably be cured within such thirty (30) day period, the thirty (30) day period shall be extended (to a period not exceeding ninety (90) days) if and so long as, in Lender's reasonable judgment, Grantor is diligently prosecuting such cure. No waiver by Lender of any default on the part of Grantor shall be construed as a waiver of any subsequent default hereunder.

3.2 Foreclosure Sale. If an Event of Default occurs and Lender so requests, Lender may obtain a judicial decree foreclosing Grantor's interest in all or any part of the Property. In addition, if permitted by applicable law, Lender may foreclose Grantor's interest in all or any part of the Property. Lender may also obtain a judgment for any deficiency remaining in any and all amounts due Lender under the Note after application of all amounts received from the exercise of the rights provided herein.

3.3 Other Remedies Upon Default. Upon the occurrence of an Event of Default, Lender is authorized, either by themselves or by their agent to be appointed by them for that purpose or by a receiver appointed by a court of competent jurisdiction, to enter into and upon and take and hold possession of any portion or all of the Property, both real and personal, and exclude Grantor and all other persons therefrom; to operate and manage the Property and rent and lease the same; to perform such reasonable acts of repair or protection as may be reasonably necessary or proper to conserve the value thereof; and collect any Rents for the benefit and

protection of Lender, and from time to time apply or accumulate such Rents in such order and manner as Lender or such receiver, in its sole discretion, shall consider advisable, to or upon the following: the expenses of receivership, if any; the proper costs of upkeep, maintenance, repair, and/or operation of the Property; the repayment of any sums advanced pursuant to the terms of this Mortgage; the interest then due upon the indebtedness secured hereby; the costs of appraisal of the Property, and the taxes and assessments upon the Property then due or upon the unpaid principal of such indebtedness. The collection or receipt of Rents by Lender, their agent or receiver, after notice of default and notice of sale shall not affect or impair such default or notices or any sale proceedings predicated thereon. Any Rents in the possession of Lender, their agent or receiver, at the time of sale and not theretofore applied as herein provided, shall be applied in the same manner and for the same purposes as the proceeds of the sale.

Lender shall not be under any obligation to make any of the payments or do any of the acts referred to in this Paragraph 3.3, and any of the actions referred to in this Paragraph 3.3 may be taken by Lender regardless of whether any notice of default or notice of sale has been given and without regard to the adequacy of the security for the indebtedness owed under the Note.

3.4 Effect of Foreclosure on Leases. Lender shall have the right, at its option, to foreclose this Mortgage subject to the rights of any tenants of the Property, and the failure to make any tenants a party defendant to any foreclosure proceeding will not be asserted by the Grantor as a defense in any action or suit instituted to collect the indebtedness secured by this Mortgage or any deficiency remaining after foreclosure. Any such tenant whom Lender elects to not make a party or subject to any foreclosure action shall continue in possession of its leasehold for the unexpired term of its lease and shall attorn to Lender or other purchaser at the sale.

3.5 Sale in Parcels; Marshalling. In the case of a sale of the Property described in this Mortgage, the property, real, personal, or mixed, may, at the sole option of the Lender, be sold as an entirety and the Grantor for and on behalf of itself and all persons claiming by, through, or under it waives any and all rights to have the Property marshalled or sold in separate parcels in any set order upon any foreclosure and sale and the beneficiary for and on behalf of itself and all persons claiming by, through, or under it specifically waives the provisions of RCW 6.21.090(2) and agrees that, upon foreclosure and sale, the property shall be sold as an entirety and not in parcels.

3.6 Appointment of Receiver. Upon an Event of Default, Lender, separately or in any action to foreclose this Mortgage, shall be entitled (without notice and without regard to the adequacy of any security for the indebtedness owed under the Note, the absence of waste or deterioration of the Property or other arguments based on equity) to the appointment of a receiver of the Rents of the Property who shall have, in addition to all the rights and powers customarily given to and exercised by such receiver, all the rights and powers granted to Lender by the covenants set forth in this Mortgage. Once appointed, at Lender's option, such receiver may remain in place until the default is cured.

3.7 Payment of Proceeds. When this Mortgage requires that amounts payable by a third party be paid directly to Lender (for example, insurance proceeds and proceeds of claims of loss or damage to the Property), Lender may enforce such right with a preliminary injunction or temporary restraining order.

ARTICLE IV - GENERAL COVENANTS

4.1 No Waiver. Grantor covenants and agrees that the acceptance by Lender of any sum secured by this Mortgage after its due date, or in an amount less than the sum then due, shall not constitute a waiver by Lender of their rights either to require prompt payment when due of all other sums so secured or to declare a default or exercise such other rights as provided in this Mortgage. No failure by Lender to insist upon strict performance of any term, covenant or condition hereof, nor failure to exercise any right or remedy hereunder, shall constitute a waiver of any such breach of such term, covenant or condition or of the later exercise of such right or remedy. All waivers shall be in writing.

4.2 "One Action" Waiver. Grantor waives all rights or defenses arising by reason of any "one action" or "anti-deficiency" law, or any other law that may prevent Lender from bringing any action against Grantor, including a claim for deficiency to the extent Lender is otherwise entitled to a claim for deficiency, before or after Lender's commencement or completion of any foreclosure action, either judicially or by exercise of a power of sale.

4.3 Remedies Cumulative. No remedy conferred upon or reserved to Lender under this Mortgage is intended to be exclusive of any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

4.4 Notices. All notices hereunder shall be deemed to have been duly given if mailed by United States registered or certified mail (return receipt requested and postage prepaid), sent by a reputable overnight delivery service, or personally delivered to the parties at the addresses set forth on page one of this Mortgage (or to such other addresses as shall be given in writing by any party to the other), and shall be deemed complete upon any such mailing, sending or delivery.

4.5 Heirs and Assigns. The term "Grantor" shall mean both the original Grantor and any subsequent owner or owners of any of the Property. The term "Lender" shall mean the Lender, including the Lender's heirs and devisees, administrators, executors, successors, and pledgees, of the Note, whether or not named as Lender herein.

4.6 Severability. If any provision under this Mortgage should be held unenforceable or void, then such provision shall be deemed separable from the remaining provisions and shall in no way affect the validity of this Mortgage, except that if such provision relates to the payment of any monetary sum then Lender may, at its option, declare the indebtedness and all other sums secured hereby immediately due and payable, provided that no prepayment fee shall be payable in the event Lender elects to exercise the option to accelerate

contained in this Paragraph 4.6.

Grantor acknowledges and agrees that this document constitutes, among others, a Mortgage and an Assignment of Leases and Rents, each of which may be construed and enforced independently of the other even though the provisions hereof are common to all.

4.7 Time is of the Essence. Time is of the essence in connection with all obligations of Grantor under this Mortgage and in the Note. By accepting payment of any sum secured after its due date, Lender does not waive their right either to require prompt payment when due of all other sums so secured or to declare default for failure so to pay.

4.8 Jury Trials. It is mutually agreed by Grantor and Lender that they each waive trial by jury in any action, proceeding, or counterclaim brought by either of them against the other on any matter whatsoever arising out of or in any way connected with the Note, this Mortgage, or the indebtedness secured hereby.

4.9 No Personal, Family or Household Use. The indebtedness secured by the Mortgage shall not be used for personal, family, or household use.

4.10 Governing Law and Venue. This Mortgage is to be governed by and construed in accordance with the laws of the State of Washington. Any dispute or cause of action under this Mortgage shall be resolved in a court of competent jurisdiction in Skagit County, Washington.

4.11 Termination. Lender shall release and reconvey this Mortgage upon satisfaction in full of all obligations secured pursuant to this Mortgage for the entire balance due and owing under the Note.

ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT, MODIFY LOAN TERMS OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.

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

GRANTOR:

Elizabeth Koudal, LLC, a Washington limited
liability company

By: David B. Hedlin
David Hedlin, its Manager

**EXHIBIT A
LEGAL DESCRIPTION**

Title Order No.: **01-171071-O**

EXHIBIT A

PARCEL "A":

Government Lot 1, Section 1, Township 33 North, Range 2 East, W.M.

Situate in the County of Skagit, State of Washington.

PARCEL "B":

The East 12 rods (198.00 feet) of Government Lot 2, Section 1, Township 33 North, Range 2 East, W.M.

Situate in the County of Skagit, State of Washington.

PARCEL "C":

Government Lot 5 and the East 12 rods (198.00 feet) of Government Lot 4, Section 1, Township 33 North, Range 2 East, W.M., together with that portion of Government Lot 7, if any, described as follows:

Beginning at a point 12 rods (198.00 feet) West and 2,640 feet South from the Northwest corner of Lot 1;
thence South 640 feet to the meander line;
thence Southeasterly and Northerly along the meander line to a point due East of the point of beginning;
thence West to the point of beginning. All in Section 1, Township 33 North, Range 2 East, W.M.

Situate in the County of Skagit, State of Washington.

PARCEL "D":

Government Lot 4, West of Sullivan Slough, Section 6, Township 33 North, Range 3 East, W.M.

Situate in the County of Skagit, State of Washington.

Title Order No.: 01-171071-O

EXHIBIT A

PARCEL "E":

That portion of the Southeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$, Section 36, Township 34 North, Range 2 East, W.M. and of Government Lot 4, Section 31, Township 34 North, Range 3 East, W.M., described as follows:

Beginning on the East line of Block 29, "MAP OF SYNDICATE ADDITION TO THE TOWN OF LA CONNER, SKAGIT CO., WASH.," as per plat recorded in Volume 2 of Plats, page 109, records of Skagit County, Washington;

South $30^{\circ}12'$ West 124.9 feet from its Northeast corner;

thence South $59^{\circ}48'$ East, 1,518.4 feet to intersect the South line of said Section 31, East 117.1 feet of its Southwest corner;

thence West 634.6 feet;

thence North $82^{\circ}05'$ West 249.2 feet to intersect the North line of Caledonia Street in said town, if produced;

thence North $59^{\circ}48'$ West along said street line produced, 739.4 feet to Block 30, said addition;

thence North $30^{\circ}12'$ East along the Easterly line of said Syndicate Addition to the Town of La Conner, 413.8 feet to the point of beginning.

EXCEPT that portion described as follows: Beginning at the intersection of the North line of Caledonia Street, as established in the Town of La Conner, with the East line of Block 30, , "MAP OF SYNDICATE ADDITION TO THE TOWN OF LA CONNER, SKAGIT CO., WASH.,"

thence North $30^{\circ}12'$ East along the East line of said Block, 200 feet;

thence South and East at right angles to the East line of said Block 30, a distance of 162 feet;

thence South $30^{\circ}12'$ West 200 feet, more or less, to the North line of Caledonia Street, if extended;

thence Northwesterly along the North line of Caledonia Street, 162 feet, more or less, to the point of beginning.

Situate in the County of Skagit, State of Washington.

PARCEL "F":

That portion of Section 36, Township 34 North, Range 2 East, W.M., described as follows:

A triangular piece of land in the Southeast corner of said Section 36, bounded on the South by the Section line, bounded on the Northwest by Tax Lot 6 (as conveyed to Fre F. Cook by deed dated April 16, 1906, recorded May 3, 1906, under Auditor's File No. 56964) and by the East line of Block 31, "MAP OF SYNDICATE ADDITION TO THE TOWN OF LA CONNER, SKAGIT CO., WASH.," as per plat recorded in Volume 2 of Plats, page 109, and bounded on the Northeast by the

Title Order No.: 01-171071-O

EXHIBIT A

PARCEL "F" continued:

road commonly known as Race Track Road (Except that portion, if any, lying within that tract conveyed to Albert O. Church by that certain deed dated March 23, 1916, recorded November 5, 1917, under Auditor's File No. 122004).

Situate in the County of Skagit, State of Washington.

PARCEL "G":

A tract of land in Section 36, Township 34 North, Range 2 East, W.M., beginning on the East line of Block 29, "MAP OF SYNDICATE ADDITION TO THE TOWN OF LA CONNER, SKAGIT CO., WASH.," as per plat recorded in Volume 2 of Plats, page 109, records of Skagit County, Washington, South 30°12' West 124.9 feet from its Northeast corner;
thence South 59°48' East 250 feet;
thence North 30°12' East 474.9 feet;
thence North 59°48' West 50 feet;
thence South 30°12' West 150 feet;
thence North 59°48' West 200 feet;
thence South 30°12' West 324.9 feet to the point of beginning,

EXCEPTING THEREFROM that portion of the Southeast ¼ of the Southeast ¼ of Section 36, Township 34 North, Range 2 East, W.M., described as follows:

Beginning at a point on the East line of Block 29, "MAP OF SYNDICATE ADDITION TO THE TOWN OF LA CONNER, SKAGIT CO., WASH.," as per plat recorded in Volume 2 of Plats, page 109, records of Skagit County, Washington, which point is South 30°12' West a distance of 124.9 feet from the Northeast corner thereof;
thence South 59°48' East a distance of 250.00 feet;
thence North 30°12' East a distance of 474.90 feet to the true point of beginning;
thence North 59°48' West a distance of 50 feet, more or less, to the Northeast corner of a tract conveyed to Stanley A. Miller, et ux, by deed recorded July 23, 1996, under Auditor's File No. 9607230040;
thence South 30°12' West, along the Easterly line of said Miller tract, a distance of 150.00 feet, more or less, to the Southeast corner thereof;
thence South 59°48' East a distance of 50.00 feet;
thence North 30°12' East a distance of 150.00 feet to the true point of beginning.

Situate in the County of Skagit, State of Washington.

Title Order No.: 01-171071-O

EXHIBIT A

PARCEL "H":

Tracts 5 and 6, Plate 19, Tide and Shore Lands of Section 1, Township 33 North, Range 2 East, W.M., as per map thereof filed in the Office of Commissioners of Public Lands at Olympia, Washington.

Situate in the County of Skagit, State of Washington.

PARCEL "T":

Tract 1, Plate 20, Tide and Shore Lands of Section 6, Township 33 North, Range 3 East, W.M., as per map thereof filed in the Office of Commissioners of Public Lands at Olympia, Washington.

Situate in the County of Skagit, State of Washington.

END OF EXHIBIT A