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06/20/2019 01:45 PM Pages: 1 of 8 Fees: \$205.00
Skagit County Auditor

RECORDATION REQUESTED BY:

Whatcom Educational Credit Union
PO Box 9750
Bellingham, WA 98227-9750

WHEN RECORDED MAIL TO:

Whatcom Educational Credit Union
PO Box 9750
Bellingham, WA 98227-9750

GUARDIAN NORTHWEST TITLE CO.

DT# 201906190070
lease 201305020095

19-2179

**SUBORDINATION, NON-DISTURBANCE, ESTOPPEL
AND ATTORNMENT AGREEMENT**

Grantor(s): E & R Management, LLC

Grantee(s): Whatcom Educational Credit Union

Abbreviated Legal Description: Section 18, Township 34 North, Range 4 East; Ptn. SE NE
Full legal description is on Exhibit A

Assessor's Property Tax Parcel or Account No.: P26188, 340418-0-103-0002, P26267, 340418-1-017-0104, P104774, 340418-1-017-0201

THIS SUBORDINATION, NON-DISTURBANCE, ESTOPPEL AND ATTORNMENT AGREEMENT (this "Agreement") is dated as of June 17, 2019, among E & R Management, LLC ("Landlord") whose address is 2000 N. State Street, Bellingham, WA 98225, Hansen Chiropractic DBA Natural Way Chiropractic of Mt Vernon ("Tenant") whose address is 1825 Riverside Drive, Mount Vernon, WA 98273, and Whatcom Educational Credit Union ("Lender"), whose address is PO Box 9750, Bellingham, WA 98227-9750.

A. Tenant and Landlord have entered into a lease dated December 1, 2012, [a memorandum of which was recorded] May 2, 2013 (together with any extensions, renewals, replacements and modifications thereof, the "Lease") covering premises located at 1825 Riverside Drive, Mount Vernon, WA 98273 and legally described on the attached Exhibit "A," which is incorporated herein by reference ("Premises"); and

1 - SUBORDINATION, NON-DISTURBANCE, ESTOPPEL AND ATTORNMENT AGREEMENT
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B. Lender has made or may make a loan of \$750,050.00 to Landlord (the "Loan") secured by a deed of trust covering the Premises (together with any amendments, extensions, renewals, supplements and replacements thereof, the "Deed of Trust") and by other security documents, and has required that the Lease be subordinate to the lien of the Deed of Trust and to any other security documents executed by Landlord (the Deed of Trust and such security documents and any amendments, extensions, renewals, supplements and replacements thereof are collectively, the Security Documents").

C. Lender has been requested by Tenant and Landlord to enter into a non-disturbance agreement with Tenant.

NOW, THEREFORE, in consideration of the promises and mutual covenants contained herein, the parties hereto mutually covenant and agree as follows:

1. The Lease and any extensions, renewals, replacements and modifications thereof, and all of the present and future right, title, and interest of Tenant in and to said Premises, including but not limited to any option, right of first refusal and/or right of first opportunity to purchase the Premises, or any acquisition of title to the Premises by Tenant during the term of the Loan, are and shall be subject and subordinate to the Security Documents and to all of the terms and conditions contained herein.

2. Lender consents to the Lease and, in the event of foreclosure of the Deed of Trust, or in the event Lender comes into possession or acquires title to the Premises as a result of the enforcement or foreclosure of the Deed of Trust or Security Documents or the note secured thereby, or as a result of any other means, Lender agrees to recognize Tenant and further agrees that Tenant shall not be disturbed in its possession of the Premises for any reason other than one which would entitle Landlord to terminate the Lease under its terms or would cause, without further action by such Landlord, the termination of the Lease or would entitle such Landlord to dispossess the Tenant from the Premises.

3. Tenant agrees with Lender that if the interest of Landlord in the Premises shall be transferred to and owned by Lender by reason of foreclosure or other proceedings brought by it, or by any other manner, Tenant shall be bound to Lender under all of the terms, covenants and conditions of the Lease for the balance of the term thereof remaining and any extensions or renewals thereof which may be effected in accordance with any option therefor in the Lease, with the same force and effect as if Lender were the Landlord under the Lease, and Tenant does hereby attorn to Lender as its Landlord, said attornment to be effective and self-operative without the execution of any further instruments on the part of any of the parties hereto immediately upon Lender succeeding to the interest of Landlord in the Premises. Tenant agrees, however, upon the election of and written demand by Lender after Lender receives title to the Premises, to promptly execute an instrument in confirmation of the foregoing provisions, satisfactory to Lender, in which Tenant shall acknowledge such attornment and shall set forth the terms and conditions of its tenancy.

4. Notwithstanding any contrary provision of this Agreement, Tenant agrees with Lender that if Lender shall succeed to the interest of Landlord under the Lease, Lender shall not be (a) liable for any action or omission of Landlord or any other prior landlord (collectively, "Prior Landlord") under the Lease, (b) subject to any offsets or defenses which Tenant might have against any Prior Landlord, (c) bound by any rent or additional rent which Tenant might have paid for more than the current month to any Prior Landlord, (d) bound by any security deposit which Tenant may have paid to any Prior Landlord, unless such deposit is in an escrow fund available to Lender, (e) liable to Tenant under any

indemnification provisions set forth in the Lease or for any damages Tenant may suffer as a result of any false representation set forth in the Lease, the breach of any warranty set forth in the Lease, or any act of, or failure to act by any party other than Lender, (f) bound by any amendment, modification, termination, surrender, cancellation or waiver of any terms of the Lease made without Lender's consent, or (g) bound by any provision in the Lease which obligates the Landlord to erect or complete any building or to perform any construction work or to make any improvements to the Premises.

5. If Lender acquires Landlord's interest in the Premises by foreclosure, deed in lieu of foreclosure or any other means, Tenant shall look solely to the interest of Lender in the Premises for the recovery of any judgment or the discharge of any other obligations of Lender and Lender shall not be personally liable for any such judgment or obligations.

6. Tenant shall provide Lender with a copy of any written notice that Tenant sends to or receives from Landlord no later than 10 days after transmission or receipt. In the event that Landlord shall default in the performance or observance of any of the terms, conditions or agreements in the Lease, Tenant shall give written notice thereof to Lender and Lender shall have the right (but not the obligation) to cure such default. Tenant shall not take any action with respect to such default under the Lease, including and without limitation, any action in order to terminate, rescind or void the Lease or to withhold any rental thereunder, for a period of 30 days after receipt of such written notice thereof by Lender with respect to any such default capable of being cured by the payment of money and for a period of 60 days after receipt of such written notice thereof by Lender with respect to any other such default (provided, that in the case of any default which cannot be cured by the payment of money and cannot with diligence be cured within such 60 day period because of the nature of such default or because Lender requires time to obtain possession of the Premises in order to cure the default, if Lender shall proceed promptly to attempt to obtain possession of the Premises, where possession is required, and to cure the same and thereafter shall prosecute the curing of such default with diligence and continuity, then the time within which such default may be cured shall be extended for such period as may be necessary to complete the curing of the same with diligence and continuity).

7. No person or entity who exercises a right, arising under the Deed of Trust or Security Documents, to receive the rents payable by Tenant under the Lease shall thereby become obligated to Tenant for the performance of any of the terms, covenants, conditions and agreements of Landlord under the Lease until and unless (and only to the extent of obligations relating to periods after) such person or entity obtains possession of the Premises. Tenant shall make the payments to be made by Tenant under the Lease to such person or entity upon receipt of written notice of the exercise of such rights. Such receipt of rent by any other party shall not relieve Landlord of its obligations under the Lease, and Tenant shall continue to look to Landlord only for performance thereof until and unless (and only to the extent of obligations relating to periods after) such other person or entity obtains possession of the Premises.

8. Tenant agrees with Lender that Tenant's estate in the Premises shall not be conveyed or encumbered without the written consent of Lender so long as the Security Documents are in effect. Tenant further agrees that Tenant will not voluntarily subordinate the Lease to any lien or encumbrance without Lender's consent.

9. Landlord and Tenant will not agree to amend, modify, terminate, surrender, cancel or waive any of the terms of the Lease without Lender's prior written consent.

10. Landlord and Tenant hereby covenant and agree with Lender as follows:

a. The Lease has been properly executed and delivered by Tenant and Landlord, is valid and binding upon Tenant, has not been modified, and is in full force and effect.

- b. There exist no defaults under the terms of the Lease by Landlord or Tenant.
- c. Tenant has not paid any rent to Landlord more than one month in advance and Landlord holds no security deposit for Tenant.
- d. The term of the Lease commenced on December 1, 2012 and ends on November 30, 2032.
- e. Rent is paid through June 30, 2019 and the current monthly rent is \$5,426.72.
- f. Tenant has no defense, claim of lien or offset under the Lease or against the rental payable thereunder; and
- g. Tenant has no claims to or interest in the Premises, legal or equitable, or any contract or option therefor, other than as a tenant under the Lease.

Tenant hereby agrees that it will promptly notify Lender in writing of and when any of the above conditions should become untrue or incorrect in any material respect.

11. Without any further consent of Tenant, Lender and Landlord may agree to any number of modifications (including increases in the amount of the Loan), extensions, renewals and replacements of the Security Documents, any promissory note evidencing the Loan and any other documents and instruments relating to the Loan and this Agreement shall remain in full force and effect following any such changes to the Loan.

12. This Agreement shall bind and inure to the benefit of all parties hereto, their successors and assigns. Without limiting the foregoing, as used herein, the term "Tenant" shall include Tenant, its successors and assigns; the words "foreclosure" and "foreclosure sale" as used herein shall be deemed to include the acquisition of Landlord's estate in the Premises by voluntary deed (or assignment) in lieu of foreclosure, and the word "Lender" shall include the Lender herein specifically named and any of its successors and assigns, including anyone who shall succeed to Landlord's interest in the Premises by, through or under foreclosure of the Deed of Trust and other Security Documents.

13. This Agreement shall not be modified or amended, except in writing signed by the parties hereto.

14. If any provision of this Agreement or the Deed of Trust conflicts with any term of the Lease, the provisions of this Agreement and the Deed of Trust shall control.

15. The use of the neuter gender in this Agreement shall be deemed to include any other gender, and words in the singular number shall be held to include the plural, when the sense requires.

16. Notwithstanding any of the other provisions hereof, this Agreement is not intended to create and shall not be deemed to create any personal liability on the part of Tenant for repayment of the Loan.

17. If any suit or action is commenced to enforce or interpret this Agreement, the prevailing party shall be entitled to recover its reasonable attorney fees at trial, in any appellate proceeding, receivership or proceeding under the bankruptcy code and post-judgment attorney fees incurred in enforcing any judgment.

18. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which, taken together, shall constitute one document.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

TENANT:

HANSEN CHIROPRACTIC, P.S.

By: *Edella Hansen*
Name: Edward L. Hansen
Title: President

LANDLORD:

E & R MANAGEMENT, LLC

By: *Edella Hansen*
Name: Edward L. Hansen
Title: Manager

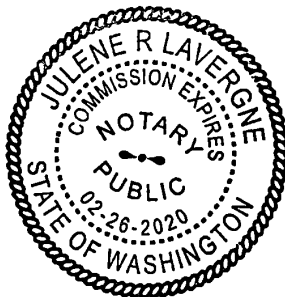
WHATCOM EDUCATIONAL CREDIT UNION

By: *Ron Richardson*
Name: Ron Richardson
Title: Business Banking Loan Officer III

STATE OF WASHINGTON)
) ss.
COUNTY OF *Whatcom*)

I certify that I know or have satisfactory evidence that Edward L. Hansen is the person(s) who appeared before me, and said person(s) acknowledged that (he/she/they) signed this instrument, on oath state that (he/she/they) was (were) authorized to execute the instrument and acknowledged it as the President of Hansen Chiropractic, P.S. to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this *19* day of *JUNE*, 20*19*

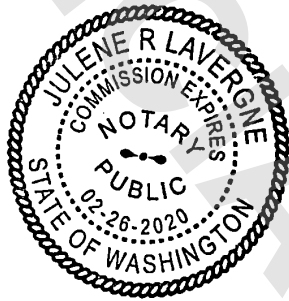


Julene R. Lavergne
Notary Public for Washington
My Commission Expires: *2/26/2020*

STATE OF WASHINGTON)
) ss.
COUNTY OF Whatcom)

I certify that I know or have satisfactory evidence that Edward L. Hansen is the person(s) who appeared before me, and said person(s) acknowledged that (he/she/they) signed this instrument, on oath state that (he/she/they) was (were) authorized to execute the instrument and acknowledged it as the Manager of E & R Management, LLC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this 19 day of JUNE, 2019



Julie R. Laverne
Notary Public for Washington
My Commission Expires: 2/26/2020

STATE OF WASHINGTON)
) ss.
COUNTY OF Whatcom)

I certify that I know or have satisfactory evidence that Ron Richardson is the person(s) who appeared before me, and said person(s) acknowledged that (he/she/they) signed this instrument, on oath state that (he/she/they) was (were) authorized to execute the instrument and acknowledged it as the Business Banking Loan Officer III of Whatcom Educational Credit Union to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this 19 day of JUNE, 2019



Julie R. Laverne
Notary Public for Washington
My Commission Expires: 2/26/2020

EXHIBIT A

The Land referred to herein below is situated in the County of Skagit, State of Washington, and is described as follows:

PARCEL "A":

Tract A, City of Mount Vernon Short Plat No. MV-3-79 as approved April 25, 1979, and recorded April 27, 1979, in Volume 3 of Short Plats, page 101, under Auditor's File No. 7904270002, records of Skagit County, Washington; being a portion of the Southeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 18, Township 34 North, Range 4 East W.M..

EXCEPT that portion conveyed to the City of Mount Vernon by Deed recorded February 27, 1997, under Auditor's File No. 9702270002, records of Skagit County, Washington.

PARCEL "B":

That portion of Tract B, City of Mount Vernon Short Plat No. MV-3-79 as approved April 25, 1979, and recorded April 27, 1979, in Volume 3 of Short Plats, page 101, under Auditor's File No. 7904270002, records of Skagit County, Washington, lying East of the West line of the East 329.64 feet of the Southeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 18, Township 34 North, Range 4 East W.M..

PARCEL "C":

That portion of the South 60.00 feet of the North 67.00 feet of the South $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 18, Township 34 North, Range 4 East, W.M., lying East of the West line of the East 329.64 feet thereof.

PARCEL "D":

An easement appurtenant to Parcels 1 and 2 described below, for walkways, ingress and egress, the parking of motor vehicles (except for employees), loading and unloading of commercial and other delivery vehicles, and the use of facilities installed for the comfort and convenience of customers, invitees and employees, as set forth in Reciprocal Easement Agreement recorded March 31, 1994 under Auditor's File No. 9403310170, records of Skagit County, Washington, and rerecorded April 7, 1994, under Auditor's File No. 9404070075, records of Skagit County, Washington, over those portions of Mount Vernon Short Plat No. MV-3-79 as approved April 25, 1979, and recorded April 27, 1979, in Volume 3 of Short Plats, page 101, under Auditor's File No. 7904270002, records of Skagit County, Washington and the Southeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 18, Township 34 North, Range 4 East, W.M., designated as the Easement Areas on Exhibit C of said Easement Agreement.

PARCEL "1":

Tract A, City of Mount Vernon Short Plat No. MV-3-79 as approved April 25, 1979, and recorded April 27, 1979, in Volume 3 of Short Plats, page 101, under Auditor's File No. 7904270002, records of Skagit County, Washington; being a portion of the Southeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 18, Township 34 North, Range 4 East, W.M..

EXHIBIT A continued

TOGETHER WITH that portion of Tract B of said Short Plat lying East of the West line of the East 329.64 feet of the Southeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 18, Township 34 North, Range 4 East, W.M..

PARCEL "2":

That portion of the South 60.0 feet of the North 67.00 feet of the South $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 18, Township 34 North, Range 4 East, W.M., lying East of the West line of the East 329.64 feet thereof.