



**202003250119**

03/25/2020 04:08 PM Pages: 1 of 10 Fees: \$112.50  
Skagit County Auditor

Recording Requested By,  
And After Recording, Return To:  
WELLS FARGO BANK,  
NATIONAL ASSOCIATION  
MAC C7300-033  
1700 Lincoln Street, 3<sup>rd</sup> floor  
Denver, Colorado 80203  
Attention: Loan Documentation  
General Phone Number: 303.863.5128

CHICAGO TITLE  
020041728

LEASE SUBORDINATION AGREEMENT  
(DEED OF TRUST)

**Grantor (Lessee):** JANICKI INDUSTRIES, INC

**Grantee (Bank):** WELLS FARGO BANK, NATIONAL ASSOCIATION

**Legal Description (abbreviated):** Ptn. NW, 14-35-6E, W.M., aka Lot 1, Survey's 201908010056  
and 201911200135, Skagit County, WA.

**Additional legal(s) on page A-1.**

**Assessor's Tax Parcel/Account Number(s):** P41204 / 350614-2-004-0009 and P134890 /  
350614-2-004-0109

**Reference No. of Lease:** unrecorded lease and 202003250117

THIS AGREEMENT is entered into as of March 25, 2020, by and between JANICKI INDUSTRIES, INC., a Washington corporation ("Lessee"), and WELLS FARGO BANK, NATIONAL ASSOCIATION ("Bank").

RECITALS

A. Bank has extended credit or may hereafter extend credit to Punkin Center West, LLC and Janicki Industries, Inc. (collectively "Borrower") secured, in whole or in part, by a deed of trust (the "Deed of Trust") covering that certain real property situated in Skagit County, Washington, and described on Exhibit A attached hereto and incorporated herein by this reference (the "Property").

B. Lessee leases all or a portion of the Property pursuant to a lease entered into between Punkin Center West, LLC ("Lessor") and Lessee dated as of March 1, 2020 (the "Lease"), which Lease is unrecorded. It is a condition of Bank's agreement to extend or continue credit to Borrower secured by the Property that the security of the Deed of Trust be unconditionally and at all times remain a lien or charge upon the Property prior and superior to the rights of Lessee under the Lease.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. SUBORDINATION.

(a) Subordination of Lease. The Deed of Trust and any and all extensions, renewals, modifications or replacements thereof shall be and at all times remain a lien or charge on the Property prior and superior to the Lease. Lessee intentionally and unconditionally waives, relinquishes and subordinates the priority and superiority of the Lease and Lessee's right and interest to the Property thereunder to the lien or charge of the Deed of Trust, and any and all extensions, renewals, modifications or replacements thereof.

(b) Reliance. Lessee acknowledges that Bank, in extending or continuing to extend credit to Borrower secured by the Property is doing so in material reliance on this Agreement.

(c) Acknowledgments of Lessee. Lessee acknowledges that it has such information with respect to any credit extended by Bank to Borrower, and all loan documents executed in connection therewith as Lessee deems necessary in order to grant this subordination. Lessee further agrees that Bank is under no obligation or duty to, nor has Bank represented that it has or will, see to the application of the proceeds of any such credit by any person or entity, and any application or use of any such proceeds for purposes other than those for which they were intended shall not defeat this subordination.

(d) Entire Subordination Agreement. This Agreement constitutes the whole and only agreement between the parties hereto with regard to the subordination of the Lease to the lien or charge of the Deed of Trust; there are no agreements (written or oral) outside or separate from this Agreement with respect to the subject matter hereof; and all prior negotiations with respect thereto, if any, are merged into this Agreement. This Agreement shall supersede and cancel, but only insofar as would affect the priority between the Deed of Trust and the Lease, any prior agreements as to such subordination, including without limitation those provisions, if any, contained in the Lease which provide for the subordination thereof to the lien of a deed of trust or mortgage affecting all or any portion of the Property.

2. LEASE. Lessee hereby covenants and agrees that, so long as the Deed of Trust remains in force and effect:

(a) No Modification, Termination or Cancellation. Lessee shall not consent to any modification, termination or cancellation of the Lease without Bank's prior written consent.

(b) Notice of Default. Lessee shall notify Bank in writing concurrently with any notice given to Lessor of any breach of or default by Lessor under the Lease. Lessee agrees that Bank shall have the right (but not the obligation) to cure any breach or default specified in such notice within the time periods set forth below, and Lessee shall not declare a default of the Lease, as to Bank, if Bank cures such breach or default within thirty (30) days after the expiration of the time period provided in the Lease for the cure thereof by Lessor; provided however, that if such breach

or default cannot with diligence be cured by Bank within such thirty (30) day period, the commencement of action by Bank within such thirty (30) day period to remedy the same shall be deemed sufficient so long as Bank pursues such cure with diligence.

(c) No Advance Rents. Lessee shall not make any payments or prepayments of rent more than one (1) month in advance of the time when the same become due under the Lease.

(d) Assignment of Rents. Upon receipt by Lessee of written notice from Bank that Bank has elected to terminate the license granted to Lessor to collect rents, as provided in the Deed of Trust, and directing Lessee to make payment thereof to Bank, Lessee shall comply with such direction to pay and shall not be required to determine whether Lessor or Borrower is in default under any obligations to Bank.

3. NO LIABILITY OF BANK. Bank shall not be liable to Lessee for any act or omission of any person or entity as a lessor under the Lease, nor for the return of any sums which Lessee may have paid to any other person or entity as a lessor under the Lease as security deposits, advances or otherwise.

4. ESTOPPEL. Lessee acknowledges and represents that:

(a) Lease Effective. The Lease has been duly executed and delivered by Lessee and, subject to the terms and conditions thereof, the Lease is in full force and effect, the obligations of Lessee thereunder are valid and binding, and there have been no amendments, modifications or additions to the Lease (written or oral), other than those included in the Lease definition set forth above. The Lease constitutes the entire agreement between Lessor and Lessee with respect to the Property, and Lessee claims no rights to the Property other than as set forth in the Lease.

(b) No Default. As of the date hereof and to the best of Lessee's knowledge, (i) there exists no breach of or default under the Lease, nor any condition, act or event which with the giving of notice or the passage of time, or both, would constitute such a breach or default, and (ii) there are no existing claims, defenses or offsets against rental due or to become due under the terms of the Lease.

(c) No Prepaid Rent. No deposits or prepayments of rent have been made in connection with the Lease, except as follows:

---

5. MISCELLANEOUS.

(a) Remedies Cumulative. All remedies provided herein are cumulative, not exclusive, and shall be in addition to any and all other rights and remedies provided by law and by other agreements between Bank and Borrower, Lessor or any other person or entity.

(b) Costs, Expenses and Attorneys' Fees. If any party hereto institutes any judicial or administrative action or proceeding to enforce any rights or obligations under this Agreement, or seeking damages or any other judicial or administrative remedy, the prevailing party shall be

entitled to recover from the other party all costs and expenses, including reasonable attorneys' fees (to include outside counsel fees and all allocated costs of the prevailing party's in-house counsel), whether incurred at the trial or appellate level, in an arbitration proceeding or otherwise, and including any of the foregoing incurred in connection with any bankruptcy proceeding (including without limitation, any adversary proceeding, contested matter or motion brought by Bank or any other person) relating to Borrower, Lessee or any other person or entity.

(c) Notices. All notices, requests and demands which any party is required or may desire to give to any other party under any provision of this Agreement must be in writing delivered to each party at the address set forth below its signature, or to such other address as any party may designate by written notice to all other parties. Each such notice, request and demand shall be deemed given or made as follows: (i) if sent by hand delivery, upon delivery; (ii) if sent by mail, upon the earlier of the date of receipt or three (3) days after deposit in the U.S. mail, first class and postage prepaid; and (iii) if sent by telecopy, upon receipt.

(d) Further Assurances. At the request of any party hereto, each other party shall execute, acknowledge and deliver such other documents and/or instruments as may be reasonably required by the requesting party in order to carry out the purpose of this Agreement, provided that no such document or instrument shall modify the rights and obligations of the parties set forth herein.

(e) Borrower; Lessor. If Borrower and Lessor are the same, each reference in this Agreement to Borrower or Lessor shall be deemed a reference to said person or entity in its respective capacity.

(f) Successors, Assigns; Governing Law. This Agreement shall be binding upon and inure to the benefit of the heirs, executors, legal representatives, successors, assigns and other transferees of the parties hereto, and shall be governed by and construed in accordance with the laws of the State of Washington.

(g) Conflicts. In the event of any inconsistency between the terms of this Agreement and the Lease, the terms of this Agreement shall control.

(h) Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute and be construed as one and the same instrument.

*[Remainder of page intentionally left blank.*

*See following page(s) for signature(s) and notary acknowledgment(s).]*

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

LESSEE:

JANICKI INDUSTRIES, INC.,  
a Washington corporation

By: 

Name: Peter W. Janicki

Title: Chief Executive Officer

By: 

Name: John P. Janicki

Title: President

Address: 719 Metcalf Street  
Sedro-Woolley, WA 98284

BANK:

WELLS FARGO BANK,  
NATIONAL ASSOCIATION

By: \_\_\_\_\_

Name: Lachlan Pegg

Title: Vice President

Address: MAC P6478-059  
205 108th Ave NE, Suite 500  
Bellevue, WA 98004

*[Remainder of page intentionally left blank. See following pages for notary acknowledgements.]*

STATE OF WASHINGTON )  
COUNTY OF SKAGIT ) ss.

I certify that I know or have satisfactory evidence that **Peter W. Janicki** is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the **Chief Executive Officer of Janicki Industries, Inc., a Washington corporation**, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this 23<sup>rd</sup> day of MARCH, 2020.

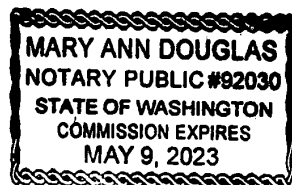


*Mary Ann Douglas*  
Notary Public for Washington  
My Appointment Expires: May 9, 2023

STATE OF WASHINGTON )  
COUNTY OF SKAGIT ) ss.

I certify that I know or have satisfactory evidence that **John P. Janicki** is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the **President of Janicki Industries, Inc., a Washington corporation**, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this 23<sup>rd</sup> day of MARCH, 2020.



*Mary Ann Douglas*  
Notary Public for Washington  
My Appointment Expires: May 9, 2023

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

## LESSEE:

JANICKI INDUSTRIES, INC.,  
a Washington corporation

By: \_\_\_\_\_  
Name: Peter W. Janicki  
Title: Chief Executive Officer

By: \_\_\_\_\_  
Name: John P. Janicki  
Title: President

Address: 719 Metcalf Street  
Sedro-Woolley, WA 98284

## BANK:

WELLS FARGO BANK,  
NATIONAL ASSOCIATION

By: \_\_\_\_\_  
Name: Lachlan Pegg  
Title: Vice President

Address: MAC P6478-059  
205 108th Ave NE, Suite 500  
Bellevue, WA 98004

*[Remainder of page intentionally left blank. See following pages for notary acknowledgements.]*

STATE OF WASHINGTON )  
COUNTY OF King ) ss.

I certify that I know or have satisfactory evidence that **Lachlan Pegg** is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the **Vice President of Wells Fargo Bank, National Association**, a national association, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this 20 day of March, 2020.



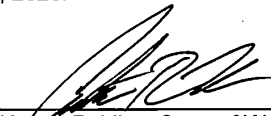
  
Notary Public – State of Washington  
My appointment expires: 04-19-2021



EXHIBIT A  
TO  
LEASE SUBORDINATION AGREEMENT  
(DEED OF TRUST)

Legal Description of Property:

That portion of the Northwest Quarter of Section 14, Township 35 North, Range 6 East of "Willamette Meridian", lying North of the Lyman Hamilton Highway, South of State Route 20, and East of Cabin Creek road, more particularly described as follows:

Commencing at the 2" brass disk marking the Northwest corner of said Section 14; thence South 01° 13' 14" West, along the West line of Section 14 and the centerline of Cabin Creek road, 50.00 feet; thence South 88° 00' 15" East, 30.00 feet, to the East margin of Cabin Creek road and the true point of beginning;

thence South 01° 13' 14" West, along said East margin, 589.67 feet, to the Northwest corner of that tract conveyed to Puget power and light company, a corporation, by Deed dated April 3, 1957, filed April 4, 1957, under Auditor's File No. 549528, Records of Skagit County, Washington; thence South 88° 00' 15" East, along the North line thereof, 70.01 feet; thence South 01° 13' 14" West, along the East line thereof, 100.01 feet; thence North 88° 00' 15" West, along the south line thereof, 70.01 feet, to the southwest corner of said tract and the East margin of Cabin Creek road; thence South 01° 13' 14" West, along said East margin, 771.07 feet, to the North margin of the Lyman Hamilton Highway; thence South 86° 10' 24" East, along said North margin, 118.68 feet, more or less, to the northwesterly line of that tract conveyed to Skagit County for flood control by Deed dated July 7, 1962, recorded July 30, 1962, as Auditor's File No. 624432, records of Skagit County, Washington, and recorded in Volume 324 of Deeds, Page 175; thence North 53° 45' 22" East, along said northwesterly line, 1342.76 feet, more or less, to the South line of the North 15.00 feet of the Northeast Quarter of the Southeast Quarter of Northwest Quarter of the Northwest Quarter of Section 14; thence North 88° 10' 17" West, along said south line, 232.73 feet, more or less, to the west line of said Northeast Quarter of the Southeast Quarter of Northwest Quarter of the Northwest Quarter; thence North 01° 14' 28" East, along said West line, 15.00 feet, to the North line of said Southwest Quarter of the Northwest Quarter of the Northwest Quarter of Section 14; thence south 88° 10' 17" East, along said north line, 252.04 feet, more or less, to aforementioned northwesterly line of that tract conveyed to Skagit County for Flood control; thence North 53° 45' 22" East, along said northwesterly line, 94.76 feet, more or less, to the centerline of vacated Ensley road, said centerline also being the East line of the Northwest Quarter of the Northwest Quarter of Section 14; thence South 01° 14' 53" West, along said east line, 126.03 feet, more or less, to the southeasterly line of said tract conveyed to Skagit County for Flood control; thence South 53° 45' 22" West, along said southwesterly line, 1266.25 feet, more or less, to the North margin of the Lyman Hamilton Highway; thence South 86° 10' 24" East, along said North margin, 1035.74 feet, more or less, to the East margin of the Lyman Hamilton Highway; thence South 01° 14' 53" West, along said East margin, 50.05 feet, to the North margin of the Great Northern Railroad right-of-way; thence South 86° 10' 24" East, along said North margin, 44.10 feet; thence North 01° 15' 41" East, 339.60 feet; thence North 88° 44' 19" West,

LEGAL DESCRIPTION  
JANICKI LEASE SUBORDINATION  
HAMILTON PROPERTY  
C-535\_WA.DOC (Rev. 03/08)  
105727.2028/7981393

-A-1-

106.69 feet; thence North 01° 15' 41" East, 387.23 feet; thence South 77° 50' 55" East, 68.83 feet; thence north 15° 43' 24" East, 494.67 feet; thence North 02° 46' 51" East, 168.42 feet, to the southerly margin of State Route 20; thence in a northwesterly direction, along said southerly margin, to the true point of beginning.

Also known as Lot 1 Boundary line Adjustment Recorded August 1, 2019 under Recording Number 201908010056 and Amended under Recording Number 201911200135,

Situate in the County of Skagit, State of Washington.

LEGAL DESCRIPTION  
JANICKI LEASE SUBORDINATION  
HAMILTON PROPERTY  
C-535\_WA.DOC (Rev. 03/08)  
105727.2028/7981393

-A-2-