

'98 SEP 29 P3:50

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

IMPERIAL THRIFT AND LOAN ASSOCIATION  
700 N. Central Avenue, Suite 100  
Glendale, California 91203



IMPERIAL THRIFT  
AND LOAN ASSOCIATION

MTC 44574-KA

(Space above this line for Recorder's use)

### ASSIGNMENT OF LEASES

This Assignment of Leases (the "Assignment") is executed by **Stephen and Cathy King, as husband and wife** (the "Borrower"), in favor of **IMPERIAL THRIFT AND LOAN ASSOCIATION**, a California industrial loan company (the "Lender"), with reference to the following facts:

A. Borrower has obtained or is about to obtain a loan from the Lender in the principal amount of **One Million and 0/100 Dollars (\$1,000,000.00)** (the "Loan") evidenced by Borrower's promissory note dated **September 25, 1998** (the "Note") in favor of the Lender. The Note and Borrower's other obligations to the Lender in connection with the Loan are secured by a deed of trust, fixture filing, assignment of rents, and security agreement (the "Deed of Trust") encumbering the real property described in Exhibit "A" attached hereto (the "Real Property") and all buildings, structures and improvements now existing or hereafter constructed on the Real Property (the "Improvements"). The Real Property and Improvements are referred to collectively as the "Property."

B. The Note, Deed of Trust, and all other documents executed by Borrower and delivered to the Lender at the Lender's request in connection with the Loan are referred to collectively as the "Loan Documents."

C. Borrower desires to assign its interest in all leases now or hereafter affecting the Property to the Lender on the terms and conditions of this Assignment.

THEREFORE, for valuable consideration, Borrower agrees as follows:

1. **Assignment.** Borrower absolutely and unconditionally grants, transfers and assigns to the Lender all of Borrower's right, title, and interest in and to the following (collectively, the "Leases"): (a) all existing and future leases affecting all or part of the Property, including the leases, if any, identified in Exhibit "B" attached to this Assignment; (b) all extensions, renewals, modifications and amendments to such leases; and (c) all guaranties of and security for the tenants' obligations under such leases. All terms with an initial capital letter which are used but not defined in this Assignment shall have the respective meanings given to such terms in the Deed of Trust.

2. **License.** Prior to the occurrence of an Event of Default under the Loan Documents, Borrower shall have a license to exercise all of the lessor's rights under the Leases and to collect all rent and other amounts payable by tenants under the Leases, including all claims by Borrower for damages resulting from or arising out of any breach by any tenant under any of the Leases (collectively, the "Rent") as the same becomes due and payable. Upon the occurrence of an Event of Default under the Loan Documents, Borrower's license to enforce the Leases and collect the Rent shall automatically be revoked without notice to Borrower. Following such revocation, the Lender shall be

SKC

entitled to enforce all of the lessor's rights under the Leases and collect and retain all Rent. The Lender shall have the right to apply all Rent collected by or on behalf of the Lender to the obligations secured by the Deed of Trust in such order and amounts as the Lender may determine in its sole and absolute discretion. No action taken by the Lender to collect Rent or enforce the Leases shall be deemed to make the Lender a mortgagee-in-possession of the Property. Notwithstanding anything to the contrary contained in this Assignment or in the other Loan Documents, Borrower's assignment of the Leases to the Lender is an absolute assignment and not an assignment as security.

3. **Notice to Tenants.** Upon revocation of the license described in Section 2 above, Borrower irrevocably authorizes all tenants under the Leases (referred to collectively as the "Tenants" and individually as a "Tenant") to comply with any notice or demand by the Lender for payment to the Lender of any Rent or for the performance of any of the Tenants' other obligations under the Leases, and no Tenant shall have any duty to inquire as to whether any default by Borrower has occurred under the Loan Documents.

4. **Warranties and Representations by Borrower.** Borrower warrants and represents to the Lender that, except as specifically set forth in a written rent statement or other writing furnished by Borrower to the Lender prior to the date of this Assignment, (a) there are no leases or rental agreements affecting all or part of the Property other than the leases identified in Exhibit "B" attached to this Assignment (collectively, the "Existing Leases"), and as of the date the Deed of Trust is recorded in the official records of the county in which the Property is located, no leases or rental agreement will affect the Property other than the Existing Leases; (b) Borrower has delivered to the Lender complete and accurate copies of the Existing Leases; (c) no rent concessions have been given to any Tenant under any of the Existing Leases; (d) no rent has been prepaid in advance for more than one (1) month by any Tenant under any of the Existing Leases; (e) no Tenant under any of the Existing Leases has any defenses to the enforcement of its Existing Lease, and no Tenant under any of the Existing Leases has any offsets or deductions to rent; (f) if this Assignment is executed in connection with existing improvements on the Real Property, each of the Tenants under the Existing Leases has accepted and now occupies its premises, and all work required to be performed by Borrower under the Existing Leases has been completed in a manner satisfactory to the Tenants; (g) no Tenant under the Existing Leases has an option or right of first refusal to expand its premises or to purchase all or part of the Property; (h) each of the Existing Leases is in full force and effect, and neither Borrower nor any Tenant is in default under any of the Existing Leases; and (i) each of the Existing Leases constitutes the entire agreement with the Tenant thereunder, and none of the Existing Leases has been modified, amended, or supplemented in any respect.

5. **Compliance with Leases.** Borrower shall perform and discharge all obligations of the lessor under the Leases in accordance with the terms thereof and shall diligently enforce all remedies available to Borrower in a commercially reasonable manner in the event of a default by the Tenant under any Lease.

6. **Lease Documentation.** If, under the terms of the Loan Documents, the Lender's prior written consent is required in connection with Borrower's execution of any Lease, at the time the Lender's consent is requested by Borrower, Borrower shall submit to the Lender (a) a complete and accurate copy of the Lease with respect to which the Lender's consent is requested; (b) the rental application of the Tenant under the Lease; (c) if specifically requested by the Lender, a complete and accurate copy of a current financial statement for the Tenant under the Lease, certified by the Tenant as being true and correct, together with a credit report for the Tenant; (d) an estoppel certificate satisfactory to the Lender in form and substance executed by the Tenant under the Lease; (e) a subordination, non-disturbance, and attornment agreement satisfactory to the Lender in form and substance executed by the Tenant under the Lease; and (f) such other information regarding the Tenant under the Lease and the proposed use of the space which is the subject of the Lease as the Lender may require. Upon the Lender's request from time to time, Borrower shall provide the Lender with the information and

documents specified in parts (a) through (f) of this Section with respect to any or all Tenants leasing space in the Improvements.

7. **Covenants by Borrower.** Borrower agrees that, without the Lender's prior written consent, and except as otherwise permitted by this Assignment, Borrower shall not (a) terminate, cancel, accept a surrender of, modify, amend, or waive any of Borrower's rights under any of the Leases, except cancellation of a Lease based on a material default by the Tenant thereunder; (b) collect Rent under any of the Leases for more than one (1) month in advance; (c) agree to subordinate any of the Leases to any other mortgage, deed of trust or encumbrance now or hereafter affecting the Property; (d) discount Rent payable under any of the Leases or release any Tenant or any other party liable for the performance of any Tenant's obligations under any of the Leases; (e) consent to any sublease or to the assignment of all or part of any Tenant's interest under the Leases; or (f) in any other manner impair the Lender's rights with respect to or interest in the Rent. Any attempted termination, cancellation, surrender, modification, amendment, or subordination of a Lease in violation of this Section shall be void. Borrower shall cause each of the Leases to contain such provisions as may be necessary or appropriate in order to enable Borrower to require and obtain from the Tenant under such Lease all information respecting such Tenant which Borrower may be obligated to provide to the Lender under the Loan Documents, including the Tenant's financial statements.

8. **Permitted Lease Modifications.** Notwithstanding Section 7 above, and provided that no Event of Default has occurred under the Loan Documents, Borrower shall have the right to enter into a modification, amendment, or supplement to a Lease (referred to collectively as a "Lease Modification") without the Lender's prior written consent, provided that (a) the Lease Modification (i) is and at all times remains subordinate to the Deed of Trust; (ii) is not material in nature; (iii) does not affect the Rent (including base rent, percentage rent, and common areas charges) payable by the Tenant, term, or any other monetary or economic term of such Lease; (iv) does not modify in any material respect the permitted use of the premises under such Lease; (v) does not change the identity of the Tenant under such Lease; and (vi) does not materially increase any obligation of the landlord under such Lease; and (b) Borrower provides the Lender with a complete and accurate copy of the Lease Modification within five (5) business days after such Lease Modification becomes effective.

9. **Approval of New Leases and Lease Modifications.** Provided that no Event of Default has occurred under the Loan Documents, the Lender shall exercise its right to grant or withhold its approval of any proposed new Lease ("New Lease") or Lease Modification requiring the Lender's approval under the Loan Documents in the Lender's good faith business judgment. The Lender shall use its good faith efforts to give written notice to Borrower of the Lender's approval or disapproval of any New Lease or Lease Modification within ten (10) business days after the Lender's receipt of a complete and accurate copy of the New Lease or Lease Modification, as applicable, together with current financial statements for the Tenant thereunder and such other information regarding the New Lease or Lease Modification as the Lender may request in order to enable the Lender to make a reasonably informed decision with respect to the New Lease or Lease Modification; provided, however, that the Lender shall have no liability to Borrower of any kind as a result of the Lender's failure for any reason to give such notice within such ten (10) business day period.

10. **No Liability by Lender.** Nothing contained in this Assignment shall be deemed to render the Lender directly or indirectly liable or responsible for (a) the control, care, operation, management or repair of all or part of the Property; or (b) the performance or observance of any or all of Borrower's duties, obligations, representations, or warranties as lessor under any of the Leases. The Lender shall have no responsibility or liability of any kind to Borrower for any failure or delay by the Lender in enforcing any of the terms or conditions of any of the Leases.

11. **Indemnification.** Borrower shall indemnify and hold the Lender harmless from and against any and all claims, demands, damages, liabilities, actions, causes of action, suits, costs, and expenses, including attorneys' fees and costs, arising out of or relating to (a) any duty or obligation to be performed by Borrower or any representation or warranty made by Borrower as lessor under any of the

Leases; or (b) the Lender's exercise of any or all of the Lender's rights and remedies under this Assignment.

12. **No Prior Assignments.** Borrower warrants and represents to the Lender that (a) Borrower holds or has acquired all of the lessor's rights under the Existing Leases; (b) Borrower has not assigned the Leases to any other Person; and (c) Borrower shall not assign the Leases to any other Person as long as Borrower remains indebted to the Lender in connection with the Loan.

13. **Attorneys' Fees.** Borrower shall pay to the Lender upon Lender's demand all costs and expenses, including attorneys' fees and costs, incurred by the Lender in enforcing any of the terms of the Leases or this Assignment whether or not any action or proceeding is commenced by Lender, but including any incurred in any trial, appellate or bankruptcy proceeding.

14. **Modifications: Waiver.** This Assignment may be modified only by a written agreement signed by Borrower and the Lender. No waiver of any of the terms of this Assignment shall be binding on the Lender unless such waiver is in writing and signed by the Lender.

15. **Oregon Law.** This Assignment shall be governed by and interpreted under the laws of the State of Oregon.

16. **Remedies.** The Lender shall be entitled to exercise its rights and remedies under this Assignment (a) without initiating any action or proceeding of any kind against Borrower or taking possession of the Property; (b) without regard to the adequacy of any security for Borrower's obligations to the Lender in connection with the Loan; and (c) without having recorded a notice of default and election to sell under the Deed of Trust. The Lender's rights and remedies under this Assignment are cumulative with and in addition to all other rights and remedies which the Lender may have in connection with the Loan.


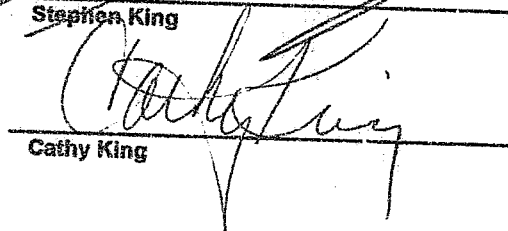
17. **Assignment; Term.** The Lender's rights under this Assignment may be separately assigned by the Lender by written instrument. Upon Borrower's payment and performance of all obligations secured by the Deed of Trust, the Lender shall execute and record a reassignment to Borrower of all rights acquired by the Lender under this Assignment.

18. **Descriptive Headings; Counterparts.** The headings to sections of this Assignment are for convenient reference only, and they do not in any way limit or amplify the terms of this Assignment and shall not be used in interpreting this Assignment. For purposes of this Agreement, the term "including" shall be deemed to mean "including without limitation." This Assignment may be signed in counterparts, each of which shall constitute an original, and all of which together shall constitute one agreement.

19. Successors. This Assignment shall be binding upon and inure to the benefit of Borrower and the Lender and their respective successors and assigns.

Dated: September 25, 1998.

BORROWER:

  
\_\_\_\_\_  
Stephen King  
  
\_\_\_\_\_  
Cathy King

[ADD ACKNOWLEDGEMENT IF TO BE RECORDED]

35803

## EMERALD PARK ESTATES

Ellsworth	\$190	6/1/92	0001	\$139
Kiser	\$190	2/7/95	0002	\$139
Sari	\$190	5/28/96	0003	\$149
Godby	\$190	8/1/94	0004	\$139
Dasher	\$190	3/25/93	0005	\$149
Nuber	\$190	6/1/94	0006	\$149
James	\$190	7/10/94	0007	\$149
Merritt	\$190	6/18/94	0008	\$149
Reister	\$190	6/1/94	0009	\$149
Hamilton	\$190	11/1/92	0010	\$139
Davis	\$190	9/14/92	0011	\$214
Bonsquet	\$190	2/28/97	0012	\$149
Taylor	\$190	5/6/94	0013	\$139
Cardonia	\$190	2/3/96	0014	\$149
Yuchnuck	\$190	8/20/97	0015	\$149
Cornelius/Pierce	\$190	2/17/97	0016	\$149
Key	\$190	9/3/97	0017	\$149
Owens	\$190	1/5/96	0018	\$149
Jansen	\$190	2/5/98	0019	\$170
Manning	\$190	3/1/97	0020	\$149
Robinson	\$190	11/1/96	0021	\$149
Mattson/Klock	\$190	4/23/97	0022	\$149
Criss	\$190	2/18/97	0023	\$149
Garver	\$190	9/1/97	0024	\$149
Stuck	\$190	5/22/97	0025	\$149
High Desert***	\$220	10/15/98	0026	\$170
Chandler/Hall	\$190	2/25/98	0027	\$170
Rodgers	\$190	4/1/98	0028	\$170
Powell	\$190	6/25/94	0029	\$149
Western Homes***	\$220	10/15/98	0030	\$170
Reid	\$190	2/14/98	0031	\$170
Kaler	\$190	7/5/94	0032	\$149
Hardman	\$190	5/7/98	0033	\$170
Chandler	\$190	3/29/98	0034	\$170
Western Homes***	\$220	10/15/98	0035	\$170
Bigby	\$190	5/1/98	0036	\$170
Vacant...Held for model home for final phase			0037	\$0
Harlen	\$190	5/5/98	0038	\$170
Kohler	\$190	4/23/97	0039	\$149
Pace	\$190	6/10/97	0040	\$149
Sims	\$190	5/7/98	0041	\$170
Wiles	\$190	10/27/97	0042	\$149
Watson	\$190	9/21/97	0043	\$149
Firestone	\$190	12/21/93	0100	\$139
Chamberlain	\$190	11/8/93	0101	\$139
Garner	\$190	7/28/95	0102	\$139
Makes	\$190	1/4/94	0103	\$139
Westrom	\$190	8/28/95	0104	\$139
Bailey	\$190	11/18/93	0105	\$139
Soto	\$190	3/13/98	0106	\$113
Baker	\$190	11/19/98	0107	\$149
Yates	\$190	1/10/93	0108	\$149
Swafford	\$190	2/1/95	0109	\$149
Taylor	\$190	7/13/94	0110	\$149
Alexander	\$190	10/1/94	0111	\$139

RENT ROLL effective 10/15/98



35804

## EMERALD PARK ESTATES

Carnini	\$190	5/30/95	0200	\$139
Harley	\$190	4/10/94	0201	\$149
Reynolds	\$190	9/28/87	0202	\$149
Neves	\$190	10/4/95	0203	\$139
Enyart	\$190	12/18/86	0204	\$149
Rivera	\$190	1/2/87	0205	\$149
Parker	\$190	10/1/86	0206	\$149
Schell	\$180	6/1/98	0207	\$149
Klopper	\$190	8/1/86	0208	\$149
Gathard	\$180	5/22/87	0209	\$149
Reyes	\$190	4/20/95	0210	\$149
Woodfork	\$180	6/1/96	0211	\$139
Albers	\$180	10/22/88	0212	\$149
Buffington	\$190	1/31/87	0213	\$149
Smith	\$190	12/18/88	0215	\$149
Knapp	\$180	7/26/98	0300	\$149
Dorrell	\$190	4/15/92	0301	\$139
Dewey	\$190	10/14/86	0302	\$149
Goodrich	\$180	11/4/86	0303	\$149
Yahn	\$190	9/20/96	0304	\$149
England/Moline	\$180	10/11/86	0305	\$150
Londraville	\$180	9/1/86	0306	\$149
OConnell	\$190	8/1/96	0307	\$149
Engelbreitson	\$180	4/28/97	0400	\$149
Christine/Boice	\$190	2/5/88	0401	\$170
Christensen	\$180	12/10/87	0402	\$149
Birt	\$190	8/30/87	0403	\$149
Bryson	\$180	10/27/87	0404	\$149
Smith C.	\$190	4/10/98	0405	\$170
Marcell	\$180	8/1/98	0406	\$170
TOTAL	\$16,050			

\*\*\* Model Homes utilized as sales centers which will not be offered for sale by dealerships until final phase is completed & new 15 spaces are leased at new rental rate of \$220 monthly.  
Model Home rents were increased to \$220 monthly commencing 10/15/98

RENT ROLL effective 10/15/98

35805

END OF LEGAL DESCRIPTION

BORROWER'S INITIALS: 9/10/11



ASSIGNMENT OF LEASESEXHIBIT "A"LEGAL DESCRIPTION

THE REAL PROPERTY REFERRED TO HEREIN IS ALL THAT CERTAIN REAL PROPERTY LOCATED IN THE CITY OF KLAMATH FALLS, COUNTY OF KLAMATH, STATE OF OREGON, DESCRIBED AS FOLLOWS:

PARCEL 2 OF MINOR LAND PARTITION 44-91 SITUATED IN THE W 1/2 NE 1/4 SECTION 13, TOWNSHIP 39 SOUTH, RANGE 9 EAST OF THE WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON, AND FILED IN THE KLAMATH COUNTY CLERK'S OFFICE.

EXCEPTING THEREFROM THAT PORTION OF THE FOLLOWING DESCRIBED TRACT OF LAND LYING WITHIN THE SW1/4 OF THE NE1/4:

A TRACT OF LAND SITUATED IN THE S1/2 OF THE NE1/4 OF SECTION 13, TOWNSHIP 39 SOUTH, RANGE 9 EAST OF THE WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST SOUTHWESTERLY CORNER OF PARCEL 2 OF "MINOR LAND PARTITION 44-91, "FROM WHICH THE 1/4 CORNER COMMON TO SECTION 12 AND SAID SECTION 13 BEARS NORTH 27 DEGREES 31' 04" WEST 1722.42 FEET; THENCE ALONG THE BOUNDARY OF SAID PARCEL 2, NORTH 35 DEGREES 00' 09" EAST 213.04 FEET, NORTH 89 DEGREES 42' 49" WEST 240.00 FEET AND NORTH 42 DEGREES 54' 50" WEST 34.30 FEET TO A POINT ON THE NORTH LINE OF THE EASEMENT AS DESCRIBED IN DEED VOLUME 291, PAGE 438 OF THE KLAMATH COUNTY DEED RECORDS; THENCE SOUTH 89 DEGREES 42' 49" EAST, ALONG SAID NORTH LINE 670.27 FEET TO A POINT ON THE EAST LINE OF THE W1/2 OF THE NE1/4 OF SAID SECTION 13; THENCE NORTH 00 DEGREES 18' 23" EAST 4.51 FEET TO THE NE 1/16 CORNER OF SAID SECTION 13; THENCE SOUTH 89 DEGREES 56' 54" EAST, ALONG THE NORTH LINE OF THE SE1/4 OF THE NE1/4 OF SAID SECTION 13, 356.08 FEET TO A POINT ON THE NORTHERLY LINE OF THAT TRACT OF LAND DESCRIBED IN DEED VOLUME 308, PAGE 618; THENCE SOUTH 72 DEGREES 58' 03" WEST, ALONG SAID NORTHERLY LINE, 516.80 FEET; THENCE ALONG THE BOUNDARY OF SAID PARCEL 2, NORTH 75 DEGREES 46' 50" WEST 128.10 FEET AND SOUTH 72 DEGREES 58' 03" WEST 279.15 FEET TO THE POINT OF BEGINNING.

BORROWER'S INITIALS:

*BZ*

ASSIGNMENT OF LEASES

35807

EXHIBIT "B"

DESCRIPTION OF EXISTING LEASES

1. Tenant: ALL EXISTING TENANTS  
Lease Date: \*\*\*Tenant Lease Date\*\*\*  
Suite or approximate square footage: SEE ATTACHED RENT ROLL

*[Handwritten signature]*

ASSIGNMENT OF LEASESEXHIBIT "B"DESCRIPTION OF EXISTING LEASES

1. Tenant: ALL EXISTING TENANTS

Lease Date: \*\*\*Tenant Lease Date\*\*\*

Suite or approximate square footage: SEE ATTACHED RENT ROLL

State of Oregon  
 County of Klamath  
 On Sept 25 1998 before me, Marion Grantham  
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")  
 personally appeared Stephen King & Cathy King  
Name(s) of Signer(s)

☒ personally known to me - OR - ☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Marion Grantham  
Signature of Notary Public

**OPTIONAL**

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

**Description of Attached Document**

Title or Type of Document: Assignment of Leases  
 Document Date: 9/25/98 Number of Pages: 1  
 Signer(s) Other Than Named Above: None

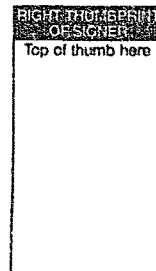
**Capacity(ies) Claimed by Signer(s)**

Signer's Name: Stephen King  
☒ Individual  
☐ Corporate Officer  
 Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Attorney-in-Fact  
☐ Trustee  
☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_

Signer Is Representing:

Signer's Name: Cathy King  
☒ Individual  
☐ Corporate Officer  
 Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Attorney-in-Fact  
☐ Trustee  
☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_

Signer Is Representing:



STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Ameri Title the 29th day  
 of September A.D., 19 98 at 3:50 o'clock P. M., and duly recorded in Vol. M98  
 of Mortgages on Page 35798

FEE \$60.00

By Bernetha G. Letsch, County Clerk  
Kathleen Ross