

03 JUL 23 PM 3:10

MT-61537 MS

Vol M03 Page 53736

RECORDING REQUESTED BY AND AFTER RECORDING RETURN TO:

JELD-WEN, inc
Attn: Jason de Vries
401 Harbor Isles Blvd
Klamath Falls, OR 97601

State of Oregon, County of Klamath
Recorded 07/29/2003 3:10 p m
Vol M03 Pg 53736-58
Linda Smith, County Clerk
Fee \$ 121.00 # of Pgs 19

**DEED OF TRUST, SECURITY AGREEMENT
AND ASSIGNMENT OF LEASES AND RENTS**

COLLATERAL IS OR INCLUDES FIXTURES

THIS DEED OF TRUST, SECURITY AGREEMENT AND ASSIGNMENT OF LEASES AND RENTS ("Trust Deed"), is made this 29th day of July 2003, among Russell and Sonya Hawkins, a married couple ("Grantor"); AmeriTitle, a title insurance company having an address of 222 S. 6th Street, Klamath Falls, OR 97601 ("Trustee"); and JELD-WEN, inc., an Oregon corporation having an address of 401 Harbor Isles Blvd., Klamath Falls, OR 97601 ("Beneficiary").

1. **GRANTING CLAUSE.** Grantor, in consideration of the acceptance by Trustee of the trust hereunder, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in order to secure the obligations described in Section 3 below, grants, mortgages, assigns, aliens, demises, bargains, sells, and conveys to Trustee and its successors in trust and assigns, forever, in trust, with power of sale, all of Grantor's estate, right, title, interest, claim, and demand in and to the real property in the county of Klamath, State of Oregon, described in all parts of this Section 1 (the "Property"):

1.1 **Land and Appurtenances.** The land described on Exhibit A attached hereto and made a part hereof ("Land"), and all tenements, hereditaments, rights-of-way, easements, appendages, and appurtenances thereto belonging or in any way appertaining, including without limitation all of the right, title, and interest of Grantor in and to any avenues, streets, ways, alleys, vaults, strips, or gores of land adjoining that property, and all claims or demands of Grantor either in law or in equity in possession or expectancy of, in, and to that property; and

1.2 **Improvements and Fixtures.** All buildings, structures, and other improvements now or hereafter erected on the Land, and all facilities, fixtures, machinery, apparatus, installations, goods, equipment, inventory, furniture, and other properties of whatsoever nature, now or hereafter located in or used or procured for use in connection with that Land, it being the intention of the parties that all property of the character hereinabove described that is now owned or hereafter acquired by Grantor and that is affixed or attached to, stored upon, or used in connection with the property described in 1.1 above shall be, remain, or become a portion of that property and shall be covered by and subject to the lien of this Trust Deed, together with all contracts, agreements, permits, plans, specifications, drawings, surveys, engineering reports, and other work products relating to the construction of the existing or any future improvements on the Property, any and all rights of Grantor in, to, or under any architect's

contracts or construction contracts relating to the construction of the existing or any future improvements on the Property, and any performance and/or payment bonds issued in connection therewith, together with all trademarks, trade names, copyrights, computer software, and other intellectual property used by Grantor in connection with the Property. The Grantor shall have the right to plan, develop, and construct improvements on the Land subject to the terms and conditions of this subsection and subject to such improvements being done in conformance with all rules, laws, ordinances, and regulations of any governing agency having jurisdiction in such matters. Grantor shall defend and hold Trustee and Beneficiary, and their respective officers, directors, employees, contractors and representatives harmless from any and all costs, obligations, and liabilities related to Grantors exercising its right to construct and from Grantor's failure to comply with the terms of this subsection; and

1.3 **Personal Property.** All articles of personal property now or hereafter owned by Grantor used in connection with the Land and improvements including, without limitation, furniture, furnishings, apparatus, machinery, equipment, motors, elevators, fittings, radiators, ranges, refrigerators, awnings, shades, screens, blinds, office equipment and all equipment pertaining to plumbing, heating, lighting, cooking, laundry, ventilation and sprinklers; and

1.4 **Enforcement and Collection Rights.** Any and all rights of Grantor without limitation to make claim for, collect, receive, and receipt for any and all rents, income, revenues, issues, royalties, and profits, including mineral, oil, and gas rights and profits, insurance proceeds, condemnation awards, and other moneys, payable or receivable from or on account of any of the Property, including interest thereon, or to enforce all other provisions of any other agreement (including those described in Section 1.2 above) affecting or relating to any of the Property, to bring any suit in equity, action at law, or other proceeding for the collection of such moneys or for the specific or other enforcement of any such agreement, award, or judgment, in the name of Grantor or otherwise, and to do any and all things that Grantor is or may be or become entitled to do with respect thereto, provided, however, that no obligation of Grantor under the provisions of any such agreements, awards, or judgments shall be impaired or diminished by virtue hereof, nor shall any such obligation be imposed upon Trustee or Beneficiary; and

1.5 **Accounts and Income.** Any and all rights of Grantor in any and all accounts, rights to payment, contract rights, chattel paper, documents, instruments, licenses, contracts, agreements, and general intangibles relating to any of the Property, including, without limitation, income and profits derived from the operation of any business on the Property or attributable to services that occur or are provided on the Property or generated from the use and operation of the Property; and

1.6 **Leases.** All of Grantor's rights as landlord in and to all existing and future leases and tenancies, whether written or oral and whether for a definite term or month to month or otherwise, now or hereafter demising all or any portion of the property described in 1.1 and 1.2 above, including all renewals and extensions thereof and all rents, deposits, and other amounts received or receivable thereunder. In accepting this Trust Deed, neither Trustee nor Beneficiary assumes any liability for the performance of any such lease; and

1.7 **Books and Records.** All books and records of Grantor relating to the foregoing in any form and all computer software necessary or useful to reading such books and records.

TO HAVE AND TO HOLD the same, together with all privileges, hereditaments, easements and appurtenances thereunto belonging, to Trustee and Trustee's successors and assigns for the benefit of Beneficiary to secure the indebtedness herein recited.

2. **SECURITY AGREEMENT.** To the extent any of the property described in Section 1 is personal property, Grantor, as debtor, grants to Beneficiary, as secured party, a security interest therein together with a security interest in all other personal property of whatsoever nature that is located on or used or to be used in connection with any of the property described in Section 1, and any products or proceeds of any thereof, pursuant to the Uniform Commercial Code of the state of Oregon (the "UCC"), on the terms and conditions contained herein. Beneficiary hereby assigns such security interest to Trustee, in trust, for the benefit of Beneficiary to be dealt with as a portion of the Property except as otherwise specified herein.

3. **OBLIGATIONS SECURED.** This Trust Deed is given for the purpose of securing:

3.1 **Performance and Payment.** The performance of the obligations contained herein and the payment of TWENTY THREE THOUSAND DOLLARS AND 00/100 CENTS (\$23,000.00) in lawful money of the United States of America with interest thereon and all other amounts payable according to the terms of the promissory note of even date herewith made by Grantor, payable to Beneficiary, having a maturity date on the third anniversary of the Note and any and all extensions, renewals, modifications, or replacements thereof, whether the same be in greater or lesser amounts (the "Note"); and

3.2 **Future Advances.** The repayment of any and all sums advanced or expenditures made by Beneficiary subsequent to the execution of this Trust Deed for the maintenance or preservation of the Property or advanced or expended by Beneficiary pursuant to any provision of this Trust Deed subsequent to its execution, together with interest thereon. The maximum amount that may be secured hereby at any one time is ONE HUNDRED THOUSAND AND 00/100 DOLLARS (\$100,000.00). The time period within which any such future disbursements are to be made is the period between the date hereof and the date which is five (5) years from the date hereof. Disbursements secured hereby shall not be required to be evidenced by a "written instrument or notation", it being the intent of the parties hereto that a "written instrument or notation" for each advance shall not be applicable to disbursements made under the Note.

4. **WARRANTIES AND COVENANTS OF GRANTOR.** Grantor warrants, covenants, and agrees:

4.1 **Warranties**

(a) Grantor has full power and authority to grant the Property to Trustee and warrants the Property to be free and clear of all liens, charges, and other encumbrances except those permitted exceptions as more specifically set forth in **Exhibit B** attached hereto incorporated herein by this reference.

(b) The Property is free from damage and no matter has come to Grantor's attention (including, but not limited to, knowledge of any construction defects or nonconforming work) that would materially impair the value of the Property as security.

4.2 **Preservation of Lien.** Grantor will preserve and protect the priority of this Trust Deed as a first lien on the Property subject to any superior lien identified on Exhibit B.

4.3 **Repair and Maintenance of Property.**

4.3.1 Grantor will keep the Property in a good clean and husbandry like manner, which shall include but is not limited to continual cleaning, painting, landscaping, repairing, and refurbishing of the Property. Grantor will complete and not remove or demolish, alter, or make additions to any building or other improvement that is or becomes a part of the Property without the express written consent of Beneficiary. Grantor will underpin and support when necessary any such building or other improvement and protect and preserve the same. Grantor will complete or restore promptly and in good and workmanlike manner any such building or other improvement that may be damaged or destroyed and pay when due all claims for labor performed and materials furnished therefor. Grantor will not commit, suffer, or permit any act upon the Property in violation of law and will do all other acts which from the character or use of the Property may be reasonably necessary for the continued operation of the Property in a safe and legal manner, the specific enumerations herein not excluding the general.

4.3.2 Grantor shall comply in all material respects with (a) all laws, statutes, ordinances, rules, regulations, licenses, permits, approvals, orders, judgments and other requirements of governmental authorities relating to the Property or Grantor's use thereof, and (b) all easements, licenses and agreements relating to the Property or Grantor's use thereof.

4.4 **Insurance**

4.4.1 **Hazard.** Grantor will provide, maintain and deliver to Beneficiary, as further security for the faithful performance of this Trust Deed, insurance covering fire, casualty, and such other hazards as may be specified by Beneficiary (including insurance against flood, if the Property is situated in a designated flood zone) in an amount equal to one hundred percent (100%) of the replacement cost of the Property. Such insurance policy or policies shall include business interruption and extra expense coverage as more specifically provided in Section 4.4.3 below. All policies of insurance on the Property, whether or not required by this Trust Deed, shall name Beneficiary as first loss payee. Grantor shall be responsible for any uninsured losses and any deductibles. All existing and future policies for such insurance and all other insurance obtained by Grantor with respect to the Property, whether or not required by Beneficiary (including but not limited to earthquake insurance), and the proceeds thereof, are hereby assigned to Beneficiary, but no such assignment shall be effective to

invalidate or impair any insurance policy later than thirty (30) days before the renewal date of the required policies, Grantor will deliver to Beneficiary proof of renewal of such required policies. Should the Property or any part thereof be damaged by reason of any cause covered by insurance, Beneficiary may, at its option, commence, appear in, and prosecute, in its own name, any action or proceeding, or make any reasonable compromise or settlement in connection with such damage, and obtain all proceeds, or other relief therefor, and Grantor agrees to pay Beneficiary's costs and reasonable attorney fees in connection therewith. No insurance proceeds at any time assigned to or held by Beneficiary shall be deemed to be held in trust, and Beneficiary may commingle such proceeds with its general assets and shall not be liable for the payment of any interest thereon. The amount collected under any insurance policies required to be maintained by Grantor pursuant to this Section 4.4.1 may be applied by Beneficiary upon any indebtedness secured hereby and in such order as Beneficiary may determine, or at the option of Beneficiary, the entire amount so collected or any part thereof may be released to Grantor. Beneficiary shall in no case be obligated to see to the proper application of any amount paid over to Grantor. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

4.4.2 Liability. Grantor will maintain comprehensive general liability insurance covering the legal liability of Grantor against claims for bodily injury, personal injury, death, property damage or advertising injury occurring on, in, or about the Property with coverage of One Million Dollars (\$1,000,000) combined single limit, and naming Beneficiary an additional insured.

4.4.3 Rental Interruption. Grantor will maintain rental or business interruption and extra expense insurance in an amount equal to at least twelve (12) months' gross rental income from the Property, and naming Beneficiary as first loss payee. The amount collected under any insurance coverage required to be maintained by Grantor pursuant to this Section 4.4.3 may be applied by Beneficiary upon any indebtedness secured hereby and in such order as Beneficiary may determine, or at the option of Beneficiary, the entire amount so collected or any part thereof may be released to Grantor.

4.4.4 General Provisions. All policies of insurance required to be maintained by Grantor pursuant to this Section 4.4 shall be in form and substance and with companies acceptable to Beneficiary. Beneficiary reserves the right, in its reasonable discretion and in accordance with common lending practices for properties of this nature where situated, to increase the amount of the required coverages, require insurance against additional risks, or withdraw approval of any insurance company at any time. Grantor shall deliver to Beneficiary an original of all policies of insurance and shall obtain renewals of any policies that expire and deliver evidence of such renewals to Beneficiary no later than ten (10) days prior to the expiration date of the policy being replaced. All policies and renewals thereof shall contain provision for thirty (30) days' notice to Beneficiary prior to any cancellation thereof. Notwithstanding any of the foregoing, neither Trustee nor Beneficiary shall be responsible for any such insurance or for the collection of any insurance moneys, or for any insolvency of any insurer or insurance underwriter. Any and all unexpired insurance shall inure to the benefit of and pass to the purchaser of the Property at any trustee's or sheriff's sale held hereunder.

4.5 **Right of Inspection.** Grantor shall permit Beneficiary or its agents, at all reasonable times, and with reasonable notice, to enter upon and inspect the Property.

4.6 **Preservation of Licenses, Etc.** Grantor shall observe and comply with all requirements necessary to the continued existence and validity of all rights, licenses, permits, privileges, franchises, and concessions relating to any existing or presently contemplated use of the Property, including but not limited to any zoning variances, special exceptions, and nonconforming use permits.

4.7 **Further Assurances.** Grantor will, at its expense, from time to time execute and deliver any and all such reasonable instruments of further assurance and other instruments and do any and all such reasonable acts, or cause the same to be done, as Trustee or Beneficiary deems necessary or advisable to grant to Trustee or Beneficiary the Property or to carry out more effectively the purposes of this Trust Deed.

4.8 **Legal Actions.** Grantor will appear in and defend any action or proceeding before any court or administrative body purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; and will pay all costs and expenses, including cost of evidence of title, title insurance premiums, and any fees of attorneys, appraisers, environmental inspectors, and others, incurred by Beneficiary or Trustee, in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear, in any suit brought by Beneficiary or Trustee to foreclose this Trust Deed, and in any nonjudicial foreclosure of this Trust Deed.

4.9 **Taxes, Assessments, and Other Liens.** Grantor will pay not later than when due all taxes, assessments, encumbrances, charges, and liens with interest, on the Property or any part thereof, that at any time appear to be or are alleged to be prior and superior hereto, including but not limited to any tax on or measured by rents of the Property, the Note, this Trust Deed, or any obligation or part thereof secured hereby. Grantor may contest the amount of taxes or assessments at any time provided such contest does not cause any delinquency. Grantor shall deliver to Beneficiary no later than thirty (30) days after the due date, proof of payment of such taxes and assessments.

4.10 **Trust Expenses.** Grantor will pay all costs, fees, and expenses reasonably incurred by Beneficiary or Trustee in connection with this Trust Deed.

4.11 **Repayment of Expenditures.** Grantor will pay immediately and without demand all amounts secured by this Trust Deed, other than principal or interest on the Note, with interest from date of expenditure at the default rate of interest specified in the Note (the "Default Rate") and the repayment thereof shall be secured hereby.

4.12 **Intentionally Deleted.**

4.13 **Sale, Transfer, or Encumbrance of Property.** Grantor shall not, without the prior written consent of Beneficiary, sell, transfer, or otherwise convey the Property or any interest therein, or further encumber the Property or any interest therein, or agree to do any of the

foregoing without first repaying in full the Note and all other sums secured hereby, provided, however, that Beneficiary's consent will not be required in connection with any sale, transfer or conveyance by Grantor to an entity controlled by, or under common control with Grantor and that such sale, transfer or conveyance will not require repayment as otherwise provided herein or agree to do any of the foregoing without first repaying in full the Note and all other sums secured hereby.

Consent to any one such occurrence shall not be deemed a waiver of the right to require consent to any future occurrences.

In each instance in which a sale, transfer, or other conveyance of the Property occurs and regardless of whether Beneficiary's consent thereto is given, waived, or denied or whether Beneficiary elects to accelerate the maturity date of the Note, Grantor and its successors shall be jointly and severally liable to Beneficiary for the payment of a transfer fee (the "Transfer Fee") of one percent (1%) of the unpaid principal balance of the Note as of the date of such sale, transfer, or other conveyance. Such fee shall be payable on demand, shall bear interest from ten (10) days after such demand to and including the date of collection at the Default Rate (as defined in the Note), and shall be secured by this Trust Deed. Beneficiary's waiver of such fee in whole or in part for any one sale, transfer, or other conveyance shall not preclude the imposition thereof in any other transaction.

Notwithstanding the foregoing, Beneficiary's consent will not be required, and the one percent (1%) Transfer Fee will not be imposed, for the transfer of not more than twenty-five percent (25%) in the aggregate during the term of the Note of partnership interests in Grantor, if Grantor is a partnership, or member interests in Grantor, if Grantor is a limited liability company, or of shares of stock of Grantor, if Grantor is a corporation, provided that none of the persons or entities liable for the repayment of the Note is released from such liability.

4.14 Information for Participants. Grantor agrees to furnish such information and confirmation as may be required from time to time by Beneficiary on request of potential loan participants and agrees to make adjustments in this Trust Deed, the Note, and the other documents evidencing or securing the loan secured hereby to accommodate such participant's requirements, provided that such requirements do not vary the economic terms of the loan secured hereby.

4.15 Grantor Existence. Except as otherwise provided in Section 4.13:

(a) If Grantor is a corporation, Beneficiary is making this loan in reliance on Grantor's continued existence, ownership, and control in its present corporate form. Grantor will not alter such corporate structure, ownership, or control without the prior written consent of Beneficiary, and will do all things necessary to preserve and maintain said corporate existence and to insure its continuous right to carry on its business, including but not limited to, filing within the prescribed time all corporate tax returns and reports, and paying when due all such taxes.

(b) If Grantor is a partnership, Beneficiary is making this loan in reliance on the continued existence of Grantor partnership and upon the business and financial reputation of Grantor partnership as a business entity and each of the general partners thereof. Therefore, the general partners of Grantor hereby agree that they will take no action to dissolve Grantor partnership and will do all things within their power to prevent the dissolution and winding up of Grantor partnership, notwithstanding the death, withdrawal, or expulsion of any general partner. They further agree that without the prior written consent of Beneficiary, none of the general partners of Grantor will withdraw or be removed as a general partner of Grantor. The withdrawal or expulsion of any general partner from Grantor partnership shall not in any way affect the liability of the withdrawing or expelled general partner hereunder or on the Note.

(c) If Grantor is a limited liability company, Beneficiary is making this loan in reliance on Grantor's continued existence, ownership, and control in its present limited liability company form. Grantor will not alter such limited liability company structure, ownership, or control without the prior written consent of Beneficiary and will do all things necessary to preserve and maintain said limited liability company existence and to insure its continuous right to carry on its business.

4.16 Leases

(a) Grantor will in all respects promptly and faithfully keep, perform, and comply with all of the terms, provisions, covenants, conditions, and agreements in each of the agreements pursuant to which any tenant of any part of the Property is occupying the Property (the "Leases") to be kept, performed, and complied with by the lessor therein, and will require, demand, and strictly enforce, by all available means, the prompt and faithful performance of and compliance with all of the terms, provisions, covenants, conditions, and agreements in the Leases to be performed and complied with by the lessees therein.

(b) Grantor shall not receive or collect any rents from any present or future tenant of the Property or any part thereof in advance in excess of five percent (5%) of gross annual rental income from the Property or collect a security deposit in excess of two (2) months' rent.

(c) Grantor shall promptly deposit and maintain all security deposits or other deposits received by Grantor from tenants in a segregated trust account in a federally insured bank or savings and loan association and shall notify and direct in writing each and every present or future tenant or occupant of the Property or any part thereof that any security deposit or other deposit heretofore delivered to Grantor have been retained by Grantor or assigned and delivered to Beneficiary as the case may be.

(d) In the event any lessee under any Lease which is not a residential lease should be the subject of any proceeding under the United States Bankruptcy Code or any other type of insolvency proceeding, Grantor covenants and agrees that in the event Grantor has a claim in such proceeding in respect of any such Lease, no settlement thereof shall be made without the prior written consent of Beneficiary; and further that any check in payment of damages for rejection of any such Lease shall be made payable both to Grantor and Beneficiary;

and Grantor hereby assigns any such payment to Beneficiary and further covenants and agrees that upon request of Beneficiary it will duly endorse to the order of Beneficiary any such check, the proceeds of which will be applied to any portion of the indebtedness secured by this Trust Deed as Beneficiary may elect. In addition, after the occurrence of and during the continuance of any Event of Default, Beneficiary shall be entitled to assert, in its own name or in the name of Grantor, any claim in respect of any such Lease in any such proceeding.

4.17 Hazardous Waste

(a) For purposes of this Trust Deed, "hazardous materials" means any substance which is or may be hazardous to human health or safety or to the environment, including, without limitation, petroleum and petroleum products, asbestos, radon, and polychlorinated biphenyls (PCBs). As used herein, "environmental laws" means any and all applicable federal, state or local environmental, health and/or safety related laws or regulations.

(b) Grantor represents and warrants that except as in the ordinary course of its business and in compliance with applicable environmental laws, Grantor has not used, generated, stored, or disposed of above, in, on, under, or around the Property any hazardous substance and that there is not now, tanks or facilities on, under, or at the Property that contain or contained materials that, if known to be present in soils or ground water, would require cleanup, removal, or some other remedial action under any federal, state, or local law or regulation. Grantor hereby covenants and agrees that except as in the ordinary course of its business and in compliance with applicable environmental laws, Grantor will not conduct, permit, or authorize the generation, transportation, storage, treatment, or disposal at the Property of any hazardous substance, and neither Grantor or any agent, servant, or employee shall generate, store, bury, or dispose of any hazardous substance on or in a location that will adversely affect the Property. Grantor shall promptly and diligently comply with all requirements of federal, state, or local laws, statutes, ordinances, or regulations, or court or administrative orders or decrees, or private agreements pertaining to hazardous substances.

(c) If the presence, release, threat of release, placement on or in the Property, or the generation, transportation, storage, treatment, or disposal at the Property of any hazardous substance (i) gives rise to liability (including but not limited to, a response action, remedial action, or removal action) under RCRA, CERCLA, state toxic waste laws, or otherwise; (ii) causes a significant public health effect; or (iii) pollutes or threatens to pollute the environment, Grantor shall, at its sole expense, promptly take any and all remedial and removal action necessary to clean up the Property and mitigate exposure to liability arising from the hazardous substance, whether or not required by law. Any provision of this Trust Deed to the contrary notwithstanding, if Grantor fails to perform its obligations under this subsection 4.18(c), any funds advanced by Beneficiary to pay for any and all remedial and removal action to clean up the Property and mitigate exposure to liability from the hazardous substance shall not be secured by the lien of this Trust Deed but rather shall be covered by the separate Certificate and Indemnity Agreement Regarding Hazardous Substances executed concurrently herewith.

(d) Grantor shall promptly give Beneficiary (i) written notice and a copy of any notice or correspondence it receives from any federal, state, or other government

authority regarding hazardous substances on the Property or hazardous substances that affect or will affect the Property; (ii) written notice of any knowledge or information Grantor obtains regarding hazardous substances on the Property or hazardous substances that will affect the Property or expenses or losses incurred or expected to be incurred by Grantor or any government agency to study, assess, contain, or remove any hazardous substances on or near the Property; and (iii) written notice of any knowledge or information Grantor obtains regarding the release or discovery of hazardous substances on the Property or on other property owned by Grantor or for which Grantor is or may be responsible.

(e) In the event Beneficiary requires, from time to time, Grantor to implement an operations and maintenance plan because of the presence or potential presence of asbestos, lead-containing paint, or other hazardous substances on the Property, Grantor shall implement and follow the requirements of any such operations and maintenance plan, maintain records of such compliance at the Property, and make such records immediately available to Beneficiary upon request by Beneficiary. If Grantor defaults in its obligation to provide Beneficiary with any information or reports required to be provided under the operations and maintenance plan or this subsection 4.18(e) and such default continues after Beneficiary has provided Grantor with thirty (30) days' notice and opportunity to cure such default, Grantor shall pay to Beneficiary, as liquidated damages for the extra expense in servicing the loan secured hereby, Five Hundred Dollars (\$500) on the first day of the month following the expiration of such thirty (30) day period and One Hundred Dollars (\$100) on the first day of each month thereafter until such default is cured. All such amounts shall be secured by this Trust Deed.

4.18 Release of Property. In the event Grantor desires for Beneficiary to release any one of said tax parcels from the Trust Deed, Grantor shall, in addition to being in compliance with all the terms and conditions of the Note and this Trust Deed, pay to Beneficiary an amount equal to twenty percent (20%) of the original amount of the Note for each tax parcel requesting to be released, prior to such release being granted. In this event, the outstanding principal shall be reduced by the amount of such payment and the interest only payments shall be adjusted according to the outstanding principal following such payment.

5. DEFAULT

5.1 Definition. Any of the following shall constitute an "Event of Default" as that term is hereinafter used; provided, however, for non-monetary Events of Default, Grantor shall have a thirty (30) day cure period once such cure is commenced promptly by Grantor upon receipt of notice from Beneficiary of such non-monetary Events of Default:

(a) Any representation or warranty made by or for the benefit of Grantor herein or elsewhere in connection with the loan secured hereby, including but not limited to any representations in connection with the security therefor, shall prove to have been incorrect or misleading in any material respect;

(b) Grantor or any other person or entity liable therefor shall fail to pay when due any indebtedness secured hereby;

(c) Grantor or any other signatory thereto shall default in the performance of any covenant or agreement contained in this Trust Deed, the Note, or any other agreement securing the indebtedness secured hereby;

(d) Grantor or any other person or entity liable for the repayment of the indebtedness secured hereby shall become unable or admit in writing its inability to pay its debts as they mature, or file, or have filed against it, a voluntary or involuntary petition in bankruptcy, or make a general assignment for the benefit of creditors, or become the subject of any other receivership or insolvency proceeding;

(e) Grantor or any other signatory thereto shall default in the performance of any covenant or agreement contained in any mortgage or Trust Deed encumbering the Property, or the note or any other agreement evidencing or securing the indebtedness evidenced thereby; or

(f) A tax, charge, or lien shall be placed upon or measured by the Note, this Trust Deed, or any obligation secured hereby which Grantor does not or may not legally pay in addition to the payment of all principal and interest as provided in the Note.

5.2 Beneficiary's and Trustee's Right To Perform. Upon the occurrence of any Event of Default, Beneficiary or Trustee, but without the obligation so to do and without notice to or demand upon Grantor and without releasing Grantor from any obligations hereunder, may: make any payments or do any acts required of Grantor hereunder in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon the Property for such purposes; commence, appear in, and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; pay, purchase, contest, or compromise any encumbrance, charge, or lien in accordance with the following paragraph; and in exercising any such powers, pay necessary expenses, employ counsel, and pay a reasonable fee therefor. All sums so expended shall be payable on demand by Grantor, be secured hereby (except as otherwise provided in Section 4.18) and bear interest at the Default Rate from the date advanced or expended until repaid.

Beneficiary or Trustee in making any payment herein and hereby authorized, in the place and stead of the Grantor, in the case of a payment of taxes, assessments, water rates, sewer rentals, and other governmental or municipal charges, fines, impositions, or liens asserted against the Property, may make such payment in reliance on any bill, statement, or estimate procured from the appropriate public office without inquiry into the accuracy of the bill, statement, or estimate or into the validity of any tax, assessment, sale, forfeiture, tax lien, or title or claim thereof; in the case of any apparent or threatened adverse claim of title, lien, statement of lien, encumbrance, Trust Deed, claim, or charge, then Beneficiary or Trustee, as the case may be, shall be the sole judge of the legality or validity of same; and in the case of a payment for any other purpose herein and hereby authorized, but not enumerated in this paragraph, such payment may be made whenever, in the sole judgment and discretion of Beneficiary or Trustee, as the case may be, such advance or advances shall seem necessary or desirable to protect the full security intended to be created by this instrument, provided further, that in connection with any such advance, Beneficiary at its option may and is hereby authorized to obtain a continuation

report of title prepared by a title insurance company, the cost and expenses of which shall be repayable by the Grantor without demand and shall be secured hereby.

5.3 Remedies on Default. Upon the occurrence of any Event of Default all sums secured hereby shall become immediately due and payable, without notice or demand, at the option of Beneficiary and Beneficiary may:

(a) Have a receiver appointed as a matter of right, without regard to the sufficiency of the Property or any other security for the indebtedness secured hereby and, without the necessity of posting any bond or other security, such receiver shall take possession and control of the Property and shall collect and receive all of the rents, issues, and profits thereof;

(b) Foreclose this Trust Deed as a mortgage or otherwise realize upon the Property;

(c) Cause Trustee to exercise its power of sale; or

(d) Sue on the Note according to law.

5.4 No Waiver. By accepting payment of any sum secured hereby after its due date, Beneficiary does not waive its right either to require prompt payment when due of all other sums so secured or to declare an Event of Default for failure to do so.

5.5 Remedies Cumulative. The rights and remedies accorded by this Trust Deed shall be in addition to, and not in substitution of, any rights or remedies available under now existing or hereafter arising applicable law. All rights and remedies provided for in this Trust Deed or afforded by law or equity are distinct and cumulative and may be exercised concurrently, independently, or successively. The failure on the part of Beneficiary to promptly enforce any right hereunder shall not operate as a waiver of such right and the waiver of any default shall not constitute a waiver of any subsequent or other default. Beneficiary shall be subrogated to the claims and liens of those whose claims or liens are discharged or paid with the loan proceeds hereof.

6. CONDEMNATION. Any award of damages, whether paid as a result of judgment or prior settlement, in connection with any condemnation or other taking of any portion of the Property, for public or private use, or for injury to any portion of the Property is hereby assigned and shall be paid to Beneficiary, which may apply such moneys received by it in the same manner and with the same effect as provided in Section 4.4.1 above for disposition of proceeds of hazard insurance. Should the Property or any part or appurtenance thereof or right or interest therein be taken or threatened to be taken by reason of any public or private improvement, condemnation proceeding (including change of grade), or in any other manner, Beneficiary may, at its option, commence, appear in, and prosecute, in its own name, any action or proceeding, or make any reasonable compromise or settlement in connection with such taking or damage, and obtain all compensation, awards, or other relief therefor, and Grantor agrees to pay Beneficiary's costs and reasonable attorney fees incurred in connection therewith. No condemnation award at

any time assigned to or held by Beneficiary shall be deemed to be held in trust, and Beneficiary may commingle such award with its general assets and shall not be liable for the payment of any interest thereon.

7. TRUSTEE

7.1 **General Powers and Duties of Trustee.** At any time or from time to time, without liability therefor and without notice and without affecting the liability of any person for the payment of the indebtedness secured hereby, payment of its own fees and presentation of this Trust Deed and the Note for endorsement (in case of full reconveyance, for cancellation or retention), Trustee may:

- (a) Consent to the making of any map or plat of the Property;
- (b) Join in granting any easement or creating any restriction thereon;
- (c) Join in any subordination or other agreement affecting this Trust Deed or the lien or charge thereof; or
- (d) Reconvey, without warranty, all or any part of the Property.

7.2 **Powers and Duties on Default.** Upon written request therefor by Beneficiary specifying the nature of the default, or the nature of several defaults, and the amount or amounts due and owing, Trustee shall execute a written notice of default, and of its election to cause the Property to be sold to satisfy the obligation secured hereby, and shall cause such notice to be recorded and otherwise given according to law.

Notice of sale having been given as then required by law and not less than the time then required by law having elapsed after recordation of such notice of breach, Trustee, without demand on Grantor, shall sell the Property at the time and place of sale specified in the notice, as provided by statute, either as a whole or in separate parcels and in such order as it may determine, at public auction to the highest and best bidder for cash in lawful money of the United States, payable at time of sale. Grantor agrees that such a sale (or a sheriff's sale pursuant to judicial foreclosure) of all the Property as real estate constitutes a commercially reasonable disposition thereof, but that with respect to all or any part of the Property that may be personal property Trustee shall have and exercise, at Beneficiary's sole election, all the rights and remedies of a secured party under the UCC. Whenever notice is permitted or required hereunder or under the UCC, ten (10) days shall be deemed reasonable. Trustee may postpone sale of all or any portion of the Property, and from time to time thereafter may postpone such sale, as provided by statute. Trustee shall deliver to the purchaser its deed and bill of sale conveying the Property so sold, but without any covenant or warranty, express or implied. The recital in such deed and bill of sale of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person other than Trustee, including Grantor or Beneficiary, may purchase at such sale.

After deducting all costs, fees, and expenses of Trustee and of his trust, including the cost of evidence of title search, title insurance, and reasonable counsel fees in connection with sale,

Trustee shall apply the proceeds of sale to payment of: all sums secured hereby in such order as Beneficiary may determine; and the remainder, if any, to Grantor.

7.3 **Reassignment of Security Interest.** At the request of Beneficiary, Trustee shall reassign to Beneficiary the security interest created hereby and after such reassignment Beneficiary shall have the right, upon the occurrence or continuance of any Event of Default, to realize upon the personal property subject to this Trust Deed, independent of any action of Trustee, pursuant to the UCC.

7.4 **Acceptance of Trust.** Trustee accepts this trust when this Trust Deed, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto except Beneficiary of pending sale under any other Trust Deed or of any action or proceeding in which Grantor, Beneficiary, or Trustee shall be a party unless brought by Trustee.

7.5 **Reliance.** Trustee, upon presentation to it of an affidavit signed by Beneficiary setting forth facts showing a default by Grantor under this Trust Deed, is authorized to accept as true and conclusive all facts and statements therein, and to act thereon hereunder.

7.6 **Replacement of Trustee.** Beneficiary may, from time to time, as provided by statute, appoint another trustee in place and stead of Trustee herein named, and thereupon Trustee herein named shall be discharged and the trustee so appointed shall be substituted as Trustee hereunder, with the same effect as if originally named Trustee herein.

8. **APPLICATION OF RENTS.** Grantor hereby gives to and confers upon Beneficiary the right, power, and authority during the continuance of this Trust Deed to collect the rents, issues, and profits of the Property, reserving unto Grantor the right, prior to any default in payment of any indebtedness secured hereby or hereunder, to collect and retain such rents, issues, and profits as they become due and payable. Upon any such default, Grantor's right to spend or retain any rents, issues, or profits of the Property shall cease immediately and without notice of demand and Beneficiary may at any time and without notice, either in person, by agent, or by a receiver to be appointed by a court, without regard to the adequacy of any security for the indebtedness hereby secured and without the necessity of posting any bond or other security, enter upon and take possession of the Property or any part thereof, or in its own name sue for or otherwise collect such rents, issues, and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine. The entering upon and taking possession of the Property, the collection of such rents, issues, and profits and the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

9. NOTICES

9.1 **Trustee.** Any notice or demand upon Trustee may be given or made at:

AmeriTitle,

Attn: Kristi Redd
222 South 6th Street
Klamath Falls, OR 97601

9.2 **Grantor and Beneficiary.** Any notice to or demand upon Grantor (including any notice of default or notice of sale) or notice to or demand upon Beneficiary shall be deemed to have been sufficiently made for all purposes when deposited in the United States mails, postage prepaid, registered or certified, return receipt requested, addressed as follows:

Grantor: Russell and Sonya Hawkins
C/o Coldwell Banker Holman Premier
3815 South Sixth St.
Klamath Falls, OR 97603
Phone (541) 884-1343
Fax (541) 883-7475

Beneficiary: JELD-WEN, inc.
Attn: Jason de Vries, Real Estate Manager
401 Harbor Isles Blvd.
Klamath Falls, OR 97601

or to such other address as may be filed in writing by Grantor or Beneficiary with Trustee.

9.3 **Waiver of Notice.** The giving of notice may be waived in writing by the person or persons entitled to receive such notice, either before or after the time established for the giving of such notice.

10. **MODIFICATIONS.** Upon written request of any party then liable for any sum secured hereby, Beneficiary reserves the right to extend the term, or otherwise modify the terms, hereof or of the Note as Beneficiary and such person may from time to time deem appropriate and any such change shall not operate to release, in any manner, the liability of the original Grantor or Grantor's successors in interest.

10.1 The Property is comprised of seven separate tax parcels. In the event Obligor desires for Obligee to release any one of said tax parcels from this Trust Deed, Obligor shall, in addition to being in compliance with all the terms and conditions of this Note and the Trust Deed, pay to Obligee an amount equal to twenty percent (20%) of the original amount of this Note for each tax parcel requesting to be released, prior to such release being granted. In this event, the outstanding principal shall be reduced by the amount of such payment and the interest only payments shall be adjusted according to the outstanding principal following such payment.

11. **SUCCESSORS AND ASSIGNS.** All provisions herein contained shall be binding upon and inure to the benefit of the respective successors and assigns of the parties.

12. **GOVERNING LAW; SEVERABILITY.** This Trust Deed shall be governed by the law of the state of Oregon. In the event that any provision or clause of this Trust Deed or the Note conflicts with applicable law, the conflict shall not affect other provisions of this Trust Deed or the Note which can be given effect without the conflicting provision and to this end the provisions of this Trust Deed and the Note are declared to be severable.
13. **GRANTOR'S RIGHT TO POSSESSION.** Grantor may be and remain in possession of the Property for so long as it is not in default hereunder or under the terms of the Note and Grantor may, while it is entitled to possession of the Property, use the same.
14. **MAXIMUM INTEREST.** No provision of this Trust Deed or of the Note shall require the payment or permit the collection of interest in excess of the maximum permitted by law. If any excess of interest in such respect is herein or in the Note provided for, neither Grantor nor its successors or assigns shall be obligated to pay that portion of such interest that is in excess of the maximum permitted by law, and the right to demand the payment of any such excess shall be and is hereby waived and this Section 14 shall control any provision of this Trust Deed or the Note that is inconsistent herewith.
15. **ATTORNEYS FEES AND LEGAL EXPENSES.** In the event of any default under this Trust Deed, or in the event that any dispute arises relating to the interpretation, enforcement, or performance of any obligation secured by this Trust Deed, Beneficiary shall be entitled to collect from Grantor on demand all fees and expenses incurred in connection therewith, including but not limited to fees of attorneys, accountants, appraisers, environmental inspectors, consultants, expert witnesses, arbitrators, mediators, and court reporters. Without limiting the generality of the foregoing, Grantor shall pay all such costs and expenses incurred in connection with (a) arbitration or other alternative dispute resolution proceedings, trial court actions, and appeals; (b) bankruptcy or other insolvency proceedings of Grantor, any guarantor or other party liable for any of the obligations secured by this Trust Deed or any party having any interest in any security for any of those obligations; (c) judicial or nonjudicial foreclosure on, or appointment of a receiver for, any of the Property; (d) post-judgment collection proceedings; (e) all claims, counterclaims, cross-claims, and defenses asserted in any of the foregoing whether or not they arise out of or are related to this Trust Deed; (f) all preparation for any of the foregoing; and (g) all settlement negotiations with respect to any of the foregoing.
16. **PREPAYMENT PROVISIONS.** If at any time after default and acceleration of the indebtedness secured hereby there shall be a tender of payment of the amount necessary to satisfy such indebtedness by or on behalf of the Grantor, its successors or assigns, the same shall be deemed to be a voluntary prepayment such that the sum required to satisfy such indebtedness in full shall include, to the extent permitted by law, the additional payment required under the prepayment privilege as stated in the Note.
17. **TIME IS OF THE ESSENCE.** Time is of the essence under this Trust Deed and in the performance of every term, covenant, and obligation contained herein.
18. **MISCELLANEOUS**

18.1 Whenever the context so requires the singular number includes the plural herein, and the impersonal includes the personal.

18.2 The headings to the various sections have been inserted for convenient reference only and shall not modify, define, limit, or expand the express provisions of this Trust Deed.

18.3 This Trust Deed, the Note, and the other documents, instruments, and agreements entered into by Grantor and Beneficiary in connection therewith (collectively, the "Loan Documents") constitute the final expression of the entire agreement of the parties with respect to the transactions set forth therein. No party is relying upon any oral agreement or other understanding not expressly set forth in the Loan Documents. The Loan Documents may not be amended or modified except by means of a written document executed by the party sought to be charged with such amendment or modification.

DATED as of the day and year first above written.

GRANTOR:

Russell Hawkins
Russell Hawkins

Sonya Hawkins
Sonya Hawkins

STATE OF OREGON)

)ss:

COUNTY OF KLAMATH)

I, *Marjorie A. Stuart*, a Notary Public of the County and State aforesaid, certify that Russell Hawkins and Sonya Hawkins personally came before me this day and, being known to me personally, or having provided sufficient identification to establish their true identity, then being duly sworn, acknowledged the due execution of the foregoing instrument.

WITNESS my hand and official seal, this the 27th day of July, 2003.

Marjorie A. Stuart
Notary Public

My Commission Expires: 12/20/06

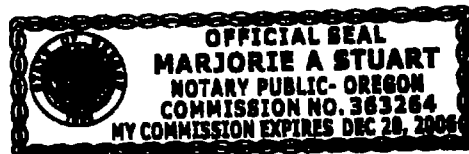


EXHIBIT A TO THE TRUST DEED

Lots 3, 5, 6, and 7, of Block 9 and Lots 10 and 11 of Block 2 of the Green Acres subdivision, ^{Tract No. 101} in
Klamath County, Oregon.

EXHIBIT B TO THE TRUST DEED**PERMITTED EXCEPTIONS**

6. **Transmission Line Easement granted to Pacific Power & Light Company as shown on dedicated plat and ass recorded January 25, 1957 in Volume 289, page 225, Klamath County, Oregon Deed Records.**
Affects: Blocks 1, 2 and 7

7. **Easements and restrictions as contained in plat dedication, to wit:**

"A 20 foot building setback from all street lines; 16 foot drainage easements as shown on the annexed plat to provided ingress and egress for the construction and maintenance of a drainage ditch; 16 foot utility easements as shown on the annexed plat to provide ingress and egress for the construction and maintenance of said utilities. (Utility and drainage easements affect rear 8 feet)

8. **Covenants, conditions and restrictions, but omitting restrictions, if any, based on race, color, religion or national origin, imposed by instrument, subject to the terms and provisions thereof,**

Recorded: July 24 1970

Volume: M70, page 6147, Microfilm Records of Klamath County, Oregon

9. **Terms and conditions of the Articles of Incorporation of Green Acres Improvement District recorded July 10, 1973 in Volume M73, page 8797, Microfilm Records of Klamath County, Oregon.**

Articles of Amendment/Liquidation - District Improvement Company, subject to the terms and provisions thereof;

Dated: February 26, 1997

Recorded: April 9, 1997

Volume: M97, page 10480, Microfilm Records of Klamath County, Oregon

For: Green Acres Improvement District

10. **Right of Way Easement created by instrument, subject to the terms and provisions thereof,**

Dated: September 5, 1979

Recorded: September 19, 1979

Volume: M79, page 22251, Microfilm Records of Klamath County, Oregon

In favor of: Pacific Power & Light Company

Affects: Lots 1 and 18, Block 9

11. **Drainage Easement created by instrument, subject to the terms and provisions thereof,**

Dated: April 29, 1982

Recorded: May 3, 1982

Volume: M82, page 5435, Microfilm Records of Klamath County, Oregon

In favor of: The public

Affects: Lot 11, Block 2