

1st 1963339

Recording Requested By and  
When Recorded Return to:

Paula L. Kluksdal  
Hawley Troxell Ennis & Hawley LLP  
P.O. Box 1617  
Boise, ID 83701

2012-014378

Klamath County, Oregon

12/27/2012 11:30:13 AM

Fee: \$157.00

SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY

The maximum principal amount to be advanced pursuant to the promissory note secured by this deed of trust is up to \$246,626.00.

The maturity date of the promissory note secured by this deed of trust, exclusive of any option to renew or extend such maturity date, is December 21, 2052.

**DEED OF TRUST,  
ASSIGNMENT OF RENTS, SECURITY AGREEMENT  
AND FIXTURE FILING**

This Instrument shall be effective as a UNIFORM COMMERCIAL CODE FINANCING STATEMENT FILED AS A FIXTURE FILING. The "Financing Statement" covers goods described herein by item or type some or all of which are affixed or are to be affixed to the real property described in Exhibit A attached hereto.

THIS DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING (hereinafter, this "Instrument") is made as of this 21st day of December, 2012, among the Grantor, NORTHWEST HIGH VALLEY ESTATES LLC, an Idaho limited liability company, whose address is 210 West Mallard Drive, Suite A, Boise, Idaho 83706 (hereinafter, "Borrower"), the Trustee, FIRST AMERICAN TITLE INSURANCE COMPANY, whose address is 9465 West Emerald Street, Suite 260, Boise, Idaho 83704 (hereinafter, "Trustee"), and the Beneficiary, NORTHWEST REAL ESTATE CAPITAL CORP., an Idaho nonprofit corporation, whose address is 210 West Mallard Drive, Suite A, Boise, Idaho 83706 (hereinafter, "Lender").

BORROWER, in consideration of the indebtedness herein recited and the trust herein created, irrevocably grants, conveys and assigns to Trustee, in trust, with power of sale, all of Borrower's present and future estate, right, title and interest in and to the following property, rights, privileges and interests, to-wit:

I.

That certain tract of real property (hereinafter referred to as the "Tract") lying in Klamath Falls, Klamath County, Oregon, which is more particularly described on Exhibit "A" attached hereto and by this reference incorporated herein.

Together with all rights-of-way, easements, tenements, hereditaments, appurtenances, royalties, mineral, oil and gas rights and profits, water, water and riparian rights, water permits, wells, ditches, well rights and permits, ditch rights (including stock in utilities with ditch or irrigation rights) and water stock and shares belonging to or in any way appertaining or relating to the Tract.

Together with all right, title and interest of Borrower, now owned or hereafter acquired, in and to any land lying in the bed of any street, road or avenue, open or proposed, in front of or adjoining the Tract.

Together with all right, title and interest of Borrower, now owned or hereafter acquired, in and to any and all sidewalks and alleys, and all strips and gores of land, adjacent to or used in connection with the Tract.

II.

All of Borrower's interests presently owned or hereafter acquired in all buildings, structures, and improvements now or at any time hereafter erected, constructed, or situated upon the Tract or any part thereof, and all apparatus, fixtures, engines, boilers, incinerators, building materials, equipment, machinery, inventory, appliances and goods of every nature whatsoever now or hereafter located in, or on, and used, or intended to be used in connection with the Tract, including, but not limited to, those for the purposes of supplying or distributing heating, cooling, electricity, gas, water, air and light; and all elevators, and related fixtures, fire prevention and extinguishing apparatus, security and access control apparatus, plumbing, awnings, storm windows, storm doors, screens, blinds, shades, paneling, attached floor coverings, antennas, trees and plants, including replacements and additions thereto, and proceeds and products thereof, all of which shall be deemed to be and remain a part of the Tract, together with any and all replacements of any of the foregoing and any and all additions thereto.

III.

All of Borrower's interests in all permits, contracts, licenses and related rights and benefits associated with the development and use of the Tract including construction contracts, rights to plans and specifications for construction, and governmental permits relating to the construction of improvements on the Tract, or occupancy or use of the Tract, and all names by which the Tract may be known, trademarks and goodwill, and all proceeds from any of the foregoing.

#### IV.

All of Borrower's interests presently owned or hereafter acquired in personal property associated with the development and use of the Tract, including, but not limited to, furniture, materials, furnishings, goods, including building materials located on or off the Tract, accounts, chattel paper, general intangibles, contract rights, instruments, investment property, and all items listed in II or III above to the extent such items are deemed to be personal property under the Uniform Commercial Code, and in the proceeds and products of any of the foregoing.

As used herein, "Uniform Commercial Code" means the Uniform Commercial Code as enacted and in effect in the state where the Property (defined below) is located (as it may from time to time be amended); provided, however, that to the extent the Uniform Commercial Code is used to define any term in this Instrument or Note (defined below) and such term is defined differently in different Articles or Divisions of the Uniform Commercial Code, the definition of such term contained in the Article or Division 9 shall govern; provided further, however, that if, by reason of mandatory provisions of law, any or all of the attachment, perfection or priority of, or remedies with respect to, any lien on the Property is governed by the Uniform Commercial Code as enacted and in effect in a jurisdiction other than the state where the Property is located, the term "Uniform Commercial Code" shall mean the Uniform Commercial Code as enacted and in effect in such other jurisdiction solely for the purposes of the provisions thereof relating to such attachment, perfection, priority or remedies and for purposes of definitions related to such provisions.

#### V.

All awards for the taking by eminent domain or by any proceeding or purchase in lieu thereof of the whole or any part of the Tract or of any improvements now or hereafter situated thereon or any estate or easement therein, and all proceeds of insurance paid on account of partial or total destruction of improvements on the Tract, all of which awards and proceeds are hereby assigned to Lender, which is hereby authorized to collect and receive such awards and proceeds and to give proper receipts and acquittances therefor.

#### VI.

All right, title and interest of Borrower in and to any and all present and future leases, rental agreements, subleases, licenses and tenancies of any portion of the Tract or of any space in any building erected upon the Tract, and the income, receipts, rents, issues and profits therefrom and of any improvements now or hereafter situated on the Tract.

#### VII.

All right, title and interest of Borrower in and to all unearned premiums accrued, accruing, or to accrue under any and all insurance policies now or hereafter obtained by Borrower pursuant to the provisions hereof.

All of the real and personal property, rights, privileges and interests described in the foregoing items I through VII and hereby granted, conveyed and assigned are hereinafter collectively referred to as the "Property."

TO SECURE TO LENDER (a) the repayment of the indebtedness evidenced by Borrower's Promissory Note dated of even date herewith (the "Note"), in the original principal amount of up to TWO HUNDRED FORTY SIX THOUSAND SIX HUNDRED TWENTY SIX AND NO/100 DOLLARS (\$246,626.00), with interest thereon; (b) any extensions, renewals or modifications of the Note or the obligations evidenced thereby, regardless of the extent of or the subject matter of any such extensions, renewals or modifications; (c) the repayment of any future advances, with interest thereon, made by Lender to Borrower pursuant to paragraph 34 hereof ("Future Advances"); (d) the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Instrument; (e) the performance of the covenants and agreements of Borrower herein contained; and (f) the payment and performance of any other indebtedness, obligation or agreement which recites by its own terms that it is secured by this Instrument. The foregoing items (a) through (f) are sometimes referred to herein as the "Obligations."

Borrower covenants that Borrower is lawfully seized of fee title to the Tract and the improvements thereon hereby conveyed and has the right to grant, convey and assign all of its interest in the Property, that the Property, except as previously disclosed to Lender, is free and clear of all liens, claims and encumbrances, and that Borrower will warrant and defend generally the title to the Property against all claims and demands.

Borrower and Lender covenant and agree as follows:

1. PAYMENT OF PRINCIPAL AND INTEREST. Borrower shall promptly pay when due the principal of and interest on the indebtedness evidenced by the Note, any prepayment and late charges provided in the Note and all other sums secured by this Instrument.

2. [INTENTIONALLY OMITTED.]

3. APPLICATION OF PAYMENTS. Unless applicable law or the Note provides otherwise, all payments received by Lender from Borrower under the Note or this Instrument shall be applied by Lender in the following order of priority: (i) interest payable on the Note; (ii) interest payable on advances made pursuant to paragraph 8 hereof; (iii) principal of advances made pursuant to paragraph 8 hereof; (iv) principal of the Note; (v) interest payable on any Future Advance, provided that if more than one Future Advance is outstanding, Lender may apply payments received among the amounts of interest payable on the Future Advances in such order as Lender, in Lender's sole discretion, may determine; (vi) principal of any Future Advance, provided that if more than one Future Advance is outstanding, Lender may apply payments received among the principal balances of the Future Advances in such order as Lender, in Lender's sole discretion may determine; and (vii) any other sums secured by this Instrument in such order as Lender, at Lender's option, may determine; provided, however, that Lender may, at Lender's option, apply any sums payable pursuant to paragraph 8 hereof prior to interest on and

principal of the Note, but such application shall not otherwise affect the order of priority of application specified in this paragraph 3.

4. CHARGES; LIENS. Borrower shall pay all taxes, assessments, premiums, and impositions attributable to the Property, by Borrower making payment, when due, directly to the payee thereof. Borrower shall promptly furnish to Lender all notices of amounts due under this paragraph 4, and in the event Borrower shall make payment directly, Borrower shall promptly furnish to Lender receipts evidencing such payments. Borrower shall promptly discharge any lien which has, or may have, priority over or equality with, the lien of this Instrument, and Borrower shall pay, when due, the claims of all persons supplying labor or materials to or in connection with the Property. Without Lender's prior written permission, Borrower shall not allow any lien inferior to this Instrument to be perfected against the Property. Notwithstanding the foregoing, Borrower shall have the right to contest in good faith the validity, amount and enforceability of any such lien so long as Borrower shall post a bond, or such other security as Lender may reasonably require, to protect the interest of Lender in the Property.

5. HAZARD INSURANCE. Borrower shall keep the improvements now existing or hereafter erected on the Tract and all Borrower's tangible personal property presently owned or hereafter acquired and wherever located at or on the Tract insured by carriers at all times satisfactory to Lender against loss by fire, theft, hazards included within the term "extended coverage," rent loss and such other hazards, casualties, liabilities and contingencies as Lender reasonably shall require and in such amounts and for such periods as Lender reasonably shall require.

All insurance policies and renewals thereof shall be in a form acceptable to Lender and shall include a standard mortgagee clause in favor of and in form acceptable to Lender. Lender shall have the right to hold true and correct copies of the policies, and Borrower shall promptly furnish to Lender all renewal notices and all receipts of paid premiums. At least thirty days prior to the expiration date of a policy, Borrower shall deliver to Lender a renewal policy in form satisfactory to Lender.

In the event of loss, Borrower shall give immediate written notice to the insurance carrier and to Lender. Pursuant to paragraph 39 hereof, Borrower hereby authorizes and empowers Lender, at Lender's option, as attorney-in-fact for Borrower, to make proof of loss, to adjust and compromise any claim under insurance policies, to appear in and prosecute any action arising from such insurance policies, to collect and receive insurance proceeds, and to deduct therefrom Lender's expenses incurred in the collection of such proceeds; provided however, that nothing contained in this paragraph 5 shall require Lender to incur any expense or take any action hereunder.

If the insurance proceeds are held by Lender to reimburse Borrower for the cost of restoration and repair of the Property, the Property shall be restored to the equivalent of its original condition or such other condition as Lender may approve in writing. Lender may, at Lender's option, condition disbursement of said proceeds on Lender's approval of such plans and specifications of an architect satisfactory to Lender, contractor's cost estimates, architect's

certificates, waivers of liens, sworn statements of mechanics and materialmen and such other evidence of costs, percentage completion of construction, application of payments, and satisfaction of liens as Lender may reasonably require. If the Property is sold pursuant to paragraph 29 hereof, or if Lender acquires title to the Property, Lender shall have all of the right, title and interest of Borrower in and to any insurance policies and unearned premiums thereon and in and to the proceeds resulting from any damage to the Property prior to such sale or acquisition.

6. PRESERVATION AND MAINTENANCE OF PROPERTY; INJURY TO PROPERTY; LEASEHOLDS. Borrower (i) shall not commit waste or permit impairment or unusual deterioration of the Property, (ii) shall restore or repair promptly and in a good and workmanlike manner all or any part of the Property to the equivalent of its original condition, or such other condition as Lender may approve in writing, in the event of any damage, injury or loss thereto, whether or not insurance proceeds are available to cover in whole or in part the costs of such restoration or repair, (iii) shall keep the Property, including improvements, fixtures, equipment, machinery and appliances thereon, in good repair and shall replace fixtures, equipment, machinery and appliances on the Property when necessary to keep such items in good repair, (iv) shall materially comply with all laws, ordinances, regulations and requirements of any governmental body applicable to the Property (including, but not limited to, zoning laws, building codes, and the requirements of Title III of the Americans With Disabilities Act of 1990) and with any covenants and restrictions running with the land, (v) shall provide for professional management of the Property by Borrower, or an affiliate of Borrower, or a rental property manager satisfactory to Lender pursuant to a contract approved by Lender in writing, unless such requirement shall be waived by Lender in writing, (vi) shall generally operate and maintain the Property in a manner to ensure maximum rentals to the extent permissible with the use restrictions against the Property, and (vii) shall give notice in writing to Lender of and, unless otherwise directed in writing by Lender, appear in and defend any third party action or proceeding purported to affect the Property, the security of this Instrument or the rights or powers of Lender. Neither Borrower nor any tenant or other person shall remove, demolish or alter any improvement now existing or hereafter erected on the Property or any fixture, equipment, machinery or appliance in or on the Property except when incident to the replacement of fixtures, equipment, machinery and appliances with items of like kind, or incident to the alteration by Borrower or a tenant of any leasehold improvements or fixtures in any tenant space resulting in the installation of improvements and fixtures with a comparable or greater value than those removed.

All causes of action of Borrower, whether accrued before or after the date of this Instrument, for damage or injury to the Property or any part thereof, or in connection with the transaction financed in whole or in part by the funds loaned to Borrower by Lender or in connection with or affecting the Property or any part thereof, including causes of action arising in tort or contract and causes of action for fraud or concealment of a material fact, but not including causes of action of Borrower against Lender, are, at Lender's option, assigned to Lender, and the proceeds thereof shall be paid to Lender who, after deducting therefrom all its expenses, including reasonable attorney's fees, may apply such proceeds to the sums secured by

this Instrument or to any deficiency hereunder or may release any moneys so received by it or any part thereof, as Lender may elect. Lender may at its option appear in and prosecute in its own name any action or proceeding to enforce any such cause of action and may make any compromise or settlement thereof. Borrower agrees to execute such further assignments and other instruments as from time to time may be necessary to effectuate the foregoing provisions and as Lender shall request.

7. **USE OF PROPERTY.** Unless required by applicable law or unless Lender has otherwise agreed in writing, Borrower shall not allow changes in the use for which all or any part of the Property was intended at the time this Instrument was executed. Borrower shall not initiate or acquiesce in a change in the zoning classification of the Property without Lender's prior written consent.

8. **PROTECTION OF LENDER'S SECURITY.** If Borrower fails to perform the covenants and agreements contained in this Instrument, or if any action or proceeding is commenced which affects the Property or title thereto or the interest of Lender therein, including, but not limited to, eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankrupt or decedent, then Lender at Lender's option, may make such appearances, disburse such sums and take such action as Lender deems necessary, in its sole discretion, to protect Lender's interest, including, but not limited to, (i) disbursement of reasonable attorney's fees, (ii) entry upon the Property to make repairs, and (iii) procurement of satisfactory insurance as provided in paragraph 5 hereof.

Any amounts disbursed by Lender pursuant to this paragraph 8, with interest thereon, shall become additional indebtedness of Borrower secured by this Instrument. Unless Borrower and Lender agree to other terms of payment, such amounts shall be immediately due and payable and shall bear interest from the date of disbursement at the rate stated in the Note unless collection from Borrower of interest at such rate would be contrary to applicable laws, in which event such amounts shall bear interest at the highest rate which may be collected from Borrower under applicable law. Borrower hereby covenants and agrees that Lender shall be subrogated to the lien of any mortgage or other lien discharged, in whole or in part, by the indebtedness secured hereby. Nothing contained in this paragraph 8 shall require Lender to incur any expense or take any action hereunder.

9. **INSPECTION.** Lender may make or cause to be made reasonable entries upon and inspections of the Property, provided that Lender shall make a reasonable effort to provide Borrower with notice of any such inspection except in the event of default under the Note, or impairment or risk of impairment to the Property as determined in the reasonable judgment of Lender.

10. **BOOKS AND RECORDS.** Borrower shall keep and maintain at all times at Borrower's address stated herein, or such other place as Lender may approve in writing, complete and accurate books of accounts and records in accordance with generally accepted accounting principles adequate to reflect correctly the results of the operation of the Property and copies of all written contracts, budgets, change orders, leases and other instruments which affect

the Property. Such books, records, contracts, leases and other instruments shall be subject to examination and inspection at any reasonable time by Lender. Upon Lender's request, Borrower shall furnish to Lender, within one hundred and twenty (120) days after the end of each fiscal year of Borrower, a balance sheet, a statement of income and expenses of the Property and a statement of changes in financial position, each in reasonable detail and certified by Borrower and, if Lender shall require, by an independent certified public accountant. Borrower shall furnish, together with the foregoing financial statements and at any other time upon Lender's request, a rent schedule for the Property, certified by Borrower, showing the name of each tenant, and for each tenant, the space occupied, the lease expiration date, the rent payable and the rent paid.

11. **INSURANCE AND CASUALTY PROCEEDS.** Lender shall not exercise its option to apply insurance proceeds or condemnation proceeds to the payment of the sums owed by the Borrower to Lender if all of the following conditions are met: (i) there are then no uncured events of default or breaches of any of the terms of the loan documents, (ii) Lender reasonably determines that there will be sufficient funds to (a) restore and repair the property to a condition reasonably approved by Lender, (b) meet all operating costs and other expenses, payments for reserves and loan repayment obligations relating to the property until completion of the restoration and repair of the project to a condition reasonably approved by Lender, and (c) Lender reasonably determines that the rental income of the property, after restoration and repair of the property to a condition reasonably approved by Lender, will be sufficient to meet all operating costs and other expenses, payments for any required reserves and loan repayment obligations relating to the property.

12. **BORROWER AND LIEN NOT RELEASED.** From time to time, Lender may, at Lender's option, without giving notice to or obtaining the consent of Borrower, Borrower's successors or assigns or of any junior lienholder or guarantors, without liability on Lender's part and notwithstanding Borrower's breach of any covenant or agreement of Borrower in this Instrument, extend the time for payment of the indebtedness or any part thereof, reduce the payments thereon, release anyone liable on the Obligations, accept a renewal note or notes therefor, modify the terms of the Obligations, including the time of payment or performance, release from the lien of this Instrument any part of the Property, take or release other or additional security, reconvey any part of the Property, consent to any map or plan of the Property, consent to the granting of any easement, join in any extension or subordination agreement, and agree in writing with Borrower to modify the rate of interest or period of amortization of the Note or change the amount of the monthly installments payable thereunder. Any actions taken by Lender pursuant to the terms of this paragraph 12 shall not affect the obligation of Borrower or Borrower's successors or assigns to pay the sums secured by this Instrument and to observe the covenants of Borrower contained herein, shall not affect the guaranty of any person, corporation, partnership or other entity for payment or performance of the Obligations secured hereby, and shall not affect the lien or priority of lien hereof on the Property. Borrower shall pay Lender a reasonable service charge, together with such title insurance premiums and reasonable attorney's fees as may be incurred, at Lender's option, for any such action if taken at Borrower's request.



13. FORBEARANCE BY LENDER NOT A WAIVER. Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any right or remedy. The acceptance by Lender of payment of any sum secured by this Instrument after the due date of such payment shall not be a waiver of Lender's right to either require prompt payment when due of all other sums so secured or to declare a default for failure to make prompt payment. The procurement of insurance or the payment of taxes or other liens or charges by Lender shall not be a waiver of Lender's right to accelerate the maturity of the indebtedness secured by this Instrument, nor shall Lender's receipt of any awards, proceeds or damages under paragraphs 5 and 11 hereof operate to cure or waive Borrower's default in payment of sums secured by this Instrument.

14. ESTOPPEL CERTIFICATE. Borrower shall within fifteen days of a written request from Lender furnish Lender with a written statement, duly acknowledged, setting forth the sums secured by this Instrument and any right of set-off, counterclaim or other defense which exists against such sums and the obligations of this Instrument.

15. UNIFORM COMMERCIAL CODE SECURITY AGREEMENT. This Instrument is intended to be a security agreement pursuant to the Uniform Commercial Code for any of the items specified above as part of the Property which, under applicable law, may be subject to a security interest pursuant to the Uniform Commercial Code, and Borrower hereby grants lender a security interest in these items and in the proceeds and products of such items to secure the Obligations of Borrower to Lender as defined herein. This Instrument shall cover all property now or hereafter affixed or attached to or incorporated upon the Tract, which, to the fullest extent permitted by law, shall be deemed fixtures and part of the Property. Borrower agrees that Lender may file this Instrument, or a reproduction thereof, in the real estate records or other appropriate index, as a financing statement for any of the items specified above as part of the Property. Any reproduction of this Instrument or of any other security agreement or financing statement shall be sufficient as a financing statement. In addition, Borrower agrees to execute and deliver to Lender, upon Lender's request, any financing statements, as well as extensions, renewals and amendments thereof, and reproductions of this Instrument in such form as Lender may require to perfect a security interest with respect to the items. Borrower shall pay all costs of filing such financing statements and any extensions, renewals, amendments and releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements which Lender may reasonably require. Without the prior written consent of Lender, Borrower shall not create or suffer to be created pursuant to the Uniform Commercial Code any other security interest in the items, including replacements and additions thereto. Upon Borrower's breach of any covenant or agreement of Borrower contained in this Instrument, including the covenants to pay when due all sums secured by this Instrument, Lender shall have the remedies of a secured party under the Uniform Commercial Code or other applicable law, and, at Lender's option, may also invoke the remedies provided in paragraph 29 of this Instrument as to such items. In exercising any of these remedies, Lender may proceed against the real property and any items of personal property specified above as part of the Property separately or together and in any order whatsoever, without in any way affecting the availability of Lender's remedies under the Uniform Commercial Code or of the remedies provided in paragraph 29 of this Instrument.

16. **LEASES OF THE PROPERTY.** Borrower shall materially comply with and observe Borrower's obligations as landlord under all leases of the Property or any part thereof. Borrower, at Lender's request, shall furnish Lender with executed copies of all leases now existing or hereafter made of all or any part of the Property, and all leases now or hereafter entered into will be in form and substance subject to the approval of Lender, except leases entered into in the ordinary course of Borrower's business. All leases other than Borrower's lease of the Property shall specifically provide that such leases are subordinate to this Instrument; that the tenant attorns to Lender, such attornment to be effective upon Lender's acquisition of title to the Property; that the tenant agrees to execute such further evidences of attornment as Lender may from time to time request; that the attornment of the tenant shall not be terminated by foreclosure; and that Lender may, at Lender's option, accept or reject such attornments. Borrower shall not, without Lender's written consent, execute, modify, surrender or terminate, either orally or in writing, any lease now existing, or hereafter made, except leases previously approved by Lender, of all or any part of the Property providing for a term of three years or more, permit an assignment or sublease of such a lease without Lender's written consent, or request or consent to the subordination of any lease of all or any part of the Property to any lien subordinate to this Instrument. If Borrower becomes aware that any tenant proposes to do, or is doing, any act or thing which may give rise to any right or set-off against rent, Borrower shall (i) take such steps as shall be reasonably calculated to prevent the accrual of any right to a set-off against rent, (ii) notify Lender thereof and of the amount of the set-offs, and (iii) within ten days after such accrual, reimburse the tenant who shall have acquired such right to set-off or take such other steps as shall effectively discharge such set-off and as shall assure that rents thereafter due shall continue to be payable without set-off or deduction.

Upon Lender's request, Borrower shall assign to Lender, by written instrument satisfactory to Lender, all leases now existing or hereafter made of all or any part of the Property and all security deposits made by tenants in connection with such leases of the Property. Upon assignment by Borrower to Lender of any leases of the Property, and upon Borrower's default hereunder or under the Note, Lender shall have all of the rights and powers possessed by Borrower prior to such assignment and Lender shall have the right to modify, extend or terminate such existing leases and to execute new leases, in Lender's sole discretion.

17. **REMEDIES CUMULATIVE.** Each remedy provided in this Instrument is distinct and cumulative to all other rights or remedies under this Instrument or afforded by law or equity and may be exercised concurrently, independently or successively, in any order whatsoever.

18. **ACCELERATION IN CASE OF BORROWER'S INSOLVENCY.** If Borrower shall voluntarily file a petition under the federal Bankruptcy Code, as such Code may from time to time be amended, or under any similar or successor federal statute relating to bankruptcy, insolvency arrangements or reorganizations, or under any state bankruptcy or insolvency act, or file an answer in an involuntary proceeding admitting insolvency or inability to pay debts, or if Borrower shall fail to obtain a vacation or stay of involuntary proceedings brought for the reorganization, dissolution or liquidation of Borrower within sixty days of the

date of filing of such proceedings, or if an order for relief in bankruptcy shall be entered against Borrower, or if a trustee or receiver shall be appointed for Borrower or Borrower's property, or if the Property shall become subject to the jurisdiction of a federal bankruptcy court or similar state court, or if Borrower shall make an assignment for the benefit of Borrower's creditors, or if there is an attachment, execution or other judicial seizure of any portion of Borrower's assets and such seizure is not discharged within sixty (60) days, then Lender may, at Lender's option, declare all of the sums secured by this Instrument to be immediately due and payable without prior notice to Borrower, and Lender may invoke any remedies permitted by paragraph 29 of this Instrument. Any reasonable attorney's fees and other expenses incurred by Lender in connection with Borrower's bankruptcy or any of the other aforesaid events shall be additional indebtedness of Borrower secured by this Instrument pursuant to paragraph 8 hereof.

Upon an event of bankruptcy as described in this paragraph 18, and if the Property or any portion thereof is included within the bankruptcy estate pursuant to 11 U.S.C. § 541 or is otherwise administered in the bankruptcy case, then all rents, issues, profits and all other income whatsoever derived from or generated by the Property ("Rents") shall be deemed to be "Cash Collateral" for purposes of 11 U.S.C. § 363, and shall be subject to the secured claims of Lender in and to such cash collateral. Further, Borrower acknowledges and confirms that Lender now holds, and will continue to hold, a valid and perfected lien on all Rents upon any such event of bankruptcy.

19. TRANSFERS OF THE PROPERTY OR BENEFICIAL INTERESTS IN BORROWER; ASSUMPTION. On sale or transfer of (i) all or any part of the Property, or any interest therein (excluding leases of tenant space which do not include options or rights to acquire any ownership or operating interest in the Property), or (ii) beneficial interests in Borrower or any approved successor in interest to Borrower in the ownership of the Property (if Borrower or any such successor is not a natural person or persons but is a corporation, partnership, trust or other legal entity), Lender may, at Lender's option, declare all of the sums secured by this Instrument to be immediately due and payable, and Lender may invoke any remedies permitted by paragraph 29 of this Instrument. This option shall not apply in case of:

(a) transfers by devise or descent or by operation of law upon the death of a joint tenant;

(b) sales or transfers approved by Lender when the transferee's creditworthiness and management ability are satisfactory to Lender and the transferee has executed, prior to the sale or transfer, a written assumption agreement containing such terms as Lender may require, including, if required by Lender, an increase in the interest rate in the Note;

(c) sales or transfers of beneficial interests in Borrower by the non-managing member(s) of Borrower to affiliates of such non-managing member(s) and, as security, to lenders having capital and surplus of not less than \$100,000,000; and

(d) sales or transfers of fixtures or any personal property pursuant to the first paragraph of paragraph 6 hereof;

20. NOTICE. Except for any notice required under applicable law to be given in another manner, any notice or other communication required or permitted to be given hereunder and any approval by any party shall be in writing and shall be personally delivered or delivered by overnight courier in each case with receipt acknowledged, or deposited in an official depository of the United States Postal Service, postage prepaid, by registered or certified mail, return receipt requested, to the other party or parties at the addresses listed below. All notices and other communications shall be deemed to have been duly given on (a) the date of receipt thereof (including all required copies thereof as set forth below) if delivered personally or by overnight courier or (b) five (5) business days after the date of mailing thereof (including all required copies thereof as set forth below) if transmitted by mail. Each party may change its address for receipt of notices by a notice given to the other parties in accordance with this provision. Notices shall be addressed as follows:

To Borrower:

NORTHWEST HIGH VALLEY ESTATES LLC  
Attn: Brad Elg, President  
210 West Mallard Drive, Suite A  
Boise, Idaho 83706

With a copy to:

Hawley Troxell Ennis & Hawley LLP  
Attn: Paula L. Kluksdal, Esq.  
877 Main Street, Suite 1000  
Boise, Idaho 83702-5884

To Lender:

NORTHWEST REAL ESTATE CAPITAL CORP.  
Attn: Brad Elg, President  
210 West Mallard Drive, Suite A  
Boise, Idaho 83706

Notwithstanding the foregoing, the failure of Lender to give notice to any party other than Borrower shall not prevent, delay or otherwise hinder Lender's exercise of any of its remedies against Borrower.

21. SUCCESSORS AND ASSIGNS BOUND; JOINT AND SEVERAL LIABILITY; AGENTS; CAPTIONS. The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to the respective successors and assigns of Lender and Borrower, subject to the provisions of paragraph 19 hereof. In exercising any rights hereunder or taking any actions provided for herein, Lender may act through its employees, agents or

independent contractors as authorized by Lender. The captions and headings of the paragraphs of this Instrument are for convenience only and are not to be used to interpret or define the provisions hereof.

22. **GOVERNING LAW; SEVERABILITY.** This Instrument and Note are being executed and delivered, and are intended to be performed, in the State of Idaho, and the laws of the State of Idaho shall govern the rights and duties of the parties hereto and the validity, construction, enforcement and interpretation of this Instrument and the Note (without giving effect to principles of conflicts of law), except to the extent otherwise specified in this Instrument and Note; provided, however, that with respect to the creating, attachment, perfection, priority and enforcement of any liens created by this Instrument or the Note, the laws of the state where the Property is located shall apply to those matters only. In the event that any provision or clause of this Instrument or the Note is invalid, such invalidity shall not affect other provisions of this Instrument or the Note which can be given effect without the invalid provision, and to this end the provisions of this Instrument and the Note are declared to be severable.

23. **WAIVER OF STATUTE OF LIMITATIONS.** Borrower hereby waives the right to assert any statute of limitations as a bar to the enforcement of the lien of this Instrument or to any action brought to enforce the Note or any other obligation secured by this Instrument.

24. **WAIVER OF MARSHALLING.** Notwithstanding the existence of any other security interest in the Property held by Lender or by any other party, Lender shall have the right to determine the order in which any or all of the Property shall be subjected to the remedies provided herein. Lender shall have the right to determine the order in which any or all portions of the indebtedness secured hereby are satisfied from the proceeds realized upon the exercise of the remedies provided herein. Borrower, any party who consents to this Instrument and any party who now or hereafter acquires a security interest in the Property and who has actual or constructive notice hereof hereby waive any and all right to require the marshalling of assets in connection with the exercise of any of the remedies permitted by applicable law or provided herein.

25. [INTENTIONALLY OMITTED.]

26. **ASSIGNMENT OF RENTS; APPOINTMENT OF RECEIVER; LENDER IN POSSESSION.** As part of the consideration for the indebtedness evidenced by the Note, Borrower hereby absolutely and unconditionally assigns and transfers to Lender all the rents and revenues of the Property (including security deposits), including those now due, past due, or to become due by virtue of any lease or other agreement for the occupancy or use of all or any part of the Property, regardless of to whom the rents and revenues of the Property are payable. Borrower hereby authorizes Lender or Lender's agents to collect the rents and revenues and hereby directs each tenant of the Property to pay such rents to Lender or Lender's agents; provided, however, that prior to written notice given by Lender to Borrower of the breach by Borrower of any covenant or agreement of Borrower in this Instrument, Borrower shall collect and receive all rents and revenues of the Property as trustee for the benefit of Lender and

Borrower, to apply the rents and revenues so collected to the sums secured by this Instrument in the order provided in paragraph 3 hereof with the balance, so long as no such breach has occurred, to the account of Borrower, it being intended by Borrower and Lender that this assignment of rents constitutes an absolute assignment and not an assignment for additional security only. Upon delivery of written notice by Lender to Borrower of the breach by Borrower of any covenant or agreement of Borrower in this Instrument, and without the necessity of Lender entering upon and taking and maintaining full control of the Property in person, by agent or by a court-appointed receiver, Lender shall immediately be entitled to possession of all rents and revenues of the Property as specified in this paragraph 26 as the same become due and payable, including but not limited to rents then due and unpaid, and all such rents shall immediately upon delivery of such notice be held by Borrower as trustee for the benefit of Lender only; provided, however, that the written notice by Lender to Borrower of the breach by Borrower shall contain a statement that Lender exercises its right to such rents. Borrower agrees that commencing upon delivery of such written notice of Borrower's breach by Lender to Borrower, each tenant of the Property shall make such rents payable to and pay such rents to Lender or Lender's agents on Lender's written demand to each tenant therefor, delivered to each tenant personally or by mail or by delivering such demand to each rental unit, without any liability on the part of the tenant to inquire further as to the existence of a default by Borrower.

Except as disclosed in writing by Borrower to Lender, Borrower hereby covenants that Borrower has not executed any prior assignment of said rents, that Borrower has not performed, and will not perform, any acts or has not executed, and will not execute, any instrument which would prevent Lender from exercising its rights under this paragraph 26, and that at the time of execution of this Instrument there has been no anticipation or prepayment of any of the rents of the Property for more than two months prior to the due dates of such rents.

Borrower covenants that Borrower will not hereafter collect or accept payment of any rents of the Property more than two months prior to the due dates of such rents. Borrower further covenants that Borrower will execute and deliver to Lender such further assignments of rents and revenues of the Property as Lender may from time to time request.

Upon Borrower's breach of any covenant or agreement of Borrower in this Instrument, Lender may, in person, by agent or by a court-appointed receiver, regardless of the adequacy of Lender's security, enter upon and take and maintain full control of the Property in order to perform all acts necessary and appropriate for the operation and maintenance thereof, including but not limited to, the execution, cancellation or modification of leases, the collection of all rents and revenues of the Property, the making of repairs to the Property and the execution or termination of contracts providing for the management or maintenance of the Property, all on such terms as are deemed best to protect the security of this Instrument. In the event Lender elects to seek the appointment of a receiver for the Property upon Borrower's breach of any covenant or agreement of Borrower in this Instrument, Borrower hereby expressly consents to the appointment of such receiver without notice to Borrower. Lender or the receiver shall be entitled to receive a reasonable fee for so managing the Property.

All rents and revenues collected subsequent to delivery of written notice by Lender to Borrower of the breach by Borrower of any covenant or agreement of Borrower in this Instrument shall be applied first to the costs, if any, of taking control of and managing the Property and collecting the rents, including, but not limited to, reasonable attorney's fees, receiver's fees, premiums on receiver's bonds, costs of repairs to the Property, premiums on insurance policies, taxes, assessment and other charges on the Property, and the costs of discharging any obligation or liability of Borrower as lessor or landlord of the Property and then to the sums secured by this Instrument. Lender or the receiver shall have access to the books and records used in the operation and maintenance of the Property and shall be liable to account only for those rents actually received. Lender shall not be liable to Borrower, anyone claiming under or through Borrower or anyone having an interest in the Property by reason of anything done or left undone by Lender under this paragraph 26.

If the rents of the Property are not sufficient to meet the costs, if any, of taking control of and managing the Property and collecting the rents, any funds expended by Lender for such purposes shall become indebtedness of Borrower to Lender secured by this Instrument pursuant to paragraph 8 hereof. Unless Lender and Borrower agree in writing to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower requesting payment thereof and shall bear interest from the date of disbursement at the rate stated in the Note unless payment of interest at such rate would be contrary to applicable law, in which event such amounts shall bear interest at the highest rate which may be collected from Borrower under applicable law.

Any entering upon and taking and maintaining of control of the Property by Lender or the receiver and any application of rents as provided herein shall not cure or waive any default hereunder or invalidate any other right or remedy of Lender under applicable law or as provided herein. This assignment of rents of the Property shall terminate at such time as this Instrument ceases to secure indebtedness held by Lender.

27. LIMITATION ON REMEDIES. Notwithstanding any contrary provision contained in this Instrument, the Note or related documents, for a period commencing on the date hereof and continuing until the earlier of (A) the maturity date of the Note, and (B) the later of (i) expiration of the fifteen (15)-year tax credit compliance period as defined in Section 42 of the Internal Revenue Code of 1986, as amended, or (ii) the first date on which neither the Borrower's IM, as defined in the Borrower's Amended and Restated Operating Agreement (the "Operating Agreement"), nor any affiliate thereof that may become its successor or assign is a member of Borrower, Lender shall have no right, in the event of a default or other breach of the Note by Borrower, (a) to declare a default, (b) to accelerate and/or to collect any of the indebtedness or other amounts due under the Note or related documents, (c) to commence foreclosure of this Instrument, or (d) to pursue any other right or remedy (including appointment of a receiver) that may result in Borrower losing ownership, possession or control of the Property; provided, however, that the foregoing restrictions on the rights of Lender shall not prohibit Lender from seeking to enforce, by legal action or otherwise, any income, rent, or similar regulatory restriction on operation of the Property.

28. INVESTMENT MEMBERS' NOTICE AND CURE RIGHTS. In addition to any other cure provisions contained in the Note or related documents, the IM and SM, as defined in the Operating Agreement, of the Borrower (the IM and SM, collectively the "Investment Members") shall have the right to cure all monetary defaults within ten (10) days and all non-monetary defaults within thirty (30) days, after receipt of written notice thereof. If a non-monetary default is not reasonably capable of being cured within thirty (30) days, the Investment Members shall have such additional time as is reasonably necessary to cure such non-monetary default, provided that the Investment Members initiate steps to cure the non-monetary default within thirty (30) days of notice and diligently proceed to cure the default. The notice to the Investment Members may be concurrent with any and all other notices given under the Note or this Instrument.

All notices required or desired to be given to the Investment Members under the loan documents shall be in writing (sent to the address set forth below or such other address designated in a written notice given to Lender) and given in the manner provided in the loan documents:

Investment Members:

PNC Real Estate Tax Credit Capital  
121 SW Morrison Street, Suite 1300  
Portland, OR 97294  
Attention: Fund Manager - HighValley

29. ACCELERATION; REMEDIES. Except as limited by Section 27 hereof, upon Borrower's breach of any covenant or agreement of Borrower in this Instrument, including, but not limited to, the covenants to pay when due any sums secured by this Instrument, or in any other deed of trust encumbering the Property, Lender, at Lender's option, may declare all of the sums secured by this Instrument to be immediately due and payable, and may invoke the power of sale and other remedies permitted by applicable law or provided herein; provided, however, that in the case of a breach relating to a failure by Borrower to make payment of any sum secured by this Instrument when due, the remedies provided herein or by law shall not be exercised if such payment is made within fifteen (15) days of the date on which such payment was due, and provided further that, except as otherwise specified, in the case of a breach relating to the failure of Borrower to perform any other covenant or agreement of Borrower in the Note, this Instrument, or any other agreement or obligation secured by this Instrument, the remedies provided hereunder or by law shall not be exercised unless Lender shall have given Borrower written notice stating the nature of the breach and (i) Borrower shall not have cured the breach within thirty (30) days after notice of the breach was given or (ii) where such breach cannot be reasonably cured within the thirty (30) day period, Borrower shall not have commenced corrective action within the thirty (30) day period or shall not have prosecuted any corrective action commenced diligently to conclusion. Borrower acknowledges that the power of sale herein granted may be exercised by Lender without prior judicial hearing. Lender shall be



entitled to collect all costs and expenses incurred in pursuing such remedies, including, but not limited to, reasonable attorneys' fees and costs of documentary evidence, abstracts and title reports.

If Lender invokes the power of sale, Lender shall execute or cause Trustee to execute a written notice of the occurrence of an event of default and of Lender's election to cause the Property to be sold and shall cause such notice to be recorded in each county in which the Property or some part thereof is located. Trustee shall give notice of default and notice of sale and shall sell the Property according to applicable law. Trustee may sell the Property at the time and place and under the terms designated in the notice of sale in one or more parcels and in such order as trustee may determine. Trustee may postpone sale of all or any parcel of the property by public announcement at the time and place of any previously scheduled sale to the extent permitted by law. Lender or Lender's designee may purchase the Property at any sale. Borrower agrees to surrender possession of the Property to the purchaser immediately after such sale.

Trustee shall deliver to the purchaser a Trustee's deed conveying the Property so sold without any covenant or warranty, express or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (i) to all costs and expenses of the sale, including, but not limited to, Trustee's and reasonable attorney's fees and costs of title evidence; (ii) to all sums secured by this Instrument in such order as Lender, in Lender's sole discretion, directs; and (iii) the excess, if any, to the person or persons legally entitled thereto.

30. RECONVEYANCE. Upon payment of all sums secured by this Instrument, Lender shall request Trustee to reconvey the Property and shall surrender this Instrument and all notes evidencing indebtedness secured by this Instrument to Trustee. Trustee shall reconvey the Property without warranty to the person or persons legally entitled thereto. Such person or persons shall pay Trustee's reasonable costs incurred in so reconveying the Property.

31. SUBSTITUTE TRUSTEE. Lender, at Lender's option, may from time to time, by an instrument in writing, appoint a successor trustee to any Trustee appointed hereunder, which instrument when executed and acknowledged by Lender and recorded in the office of the recorder of the county or counties where the Property is situated, shall be conclusive proof of proper substitution of such successor trustee. The successor trustee shall, without conveyance of the Property, succeed to all the title, powers and duties conferred upon the Trustee herein and by applicable law upon recordation of the instrument. Said instrument shall contain the name of the original Lender, Trustee and Borrower hereunder, the book and page where this instrument is recorded, and the name and address of the successor trustee.

32. REQUEST FOR NOTICES. Borrower requests that copies of any notice of default and notice of sale hereunder be sent to Borrower at Borrower's address stated herein.

33. STATEMENT OF OBLIGATION. Lender may collect a reasonable fee not to exceed the maximum allowed by applicable law for furnishing any statement of obligation

or statement regarding the condition of or balance owing under the Note or secured by this Instrument.

34. FUTURE ADVANCES. Upon request of Borrower, Lender, at Lender's option, so long as this Instrument secures indebtedness held by Lender, may make Future Advances to Borrower. Such Future Advances, with interest thereon, shall be secured by this Instrument when evidenced by promissory notes stating that said notes are secured hereby.

35. OFFSETS. No indebtedness secured by this Instrument shall be deemed to have been offset or to be offset or compensated by all or part of any claim, cause of action, counterclaim or part of any claim, cause of action, counter-claim or cross-claim, whether liquidated or unliquidated, which Borrower now or hereafter may have or may claim to have against Lender. In respect to the indebtedness now or hereafter secured hereby, Borrower waives, to the fullest extent permitted by law, the benefits of any applicable law, regulation or procedure which substantially provides that, where cross-demands for money have existed between persons at any point in time when neither demand was barred by the applicable statute of limitations, and an action is thereafter commenced by one such person, the other person may assert in his answer the defense of payment in that the two demands are compensated so far as they equal each other, notwithstanding that an independent action asserting his claim would at the times of filing his answer be barred by the applicable statute of limitations.

36. JUDICIAL FORECLOSURE. Upon the occurrence of a default hereunder, Lender shall have the option to declare all sums secured by this Instrument immediately due and payable and foreclose this Instrument as a Mortgage, to the extent permitted by law. In addition, should this Instrument be or become ineffective as a deed of trust, then this Instrument shall be construed and enforced as a mortgage with the Borrower being the mortgagor and Lender being the mortgagee.

37. TRUSTEE. The Trustee shall accept the trust created under this Instrument when this Instrument is duly executed, acknowledged and recorded in accordance with law. To the extent required by law, any right or remedy granted to Lender hereunder shall be deemed to be granted to Trustee where such right or remedy must be held or enforced by Trustee, and any action which Lender is authorized by this Instrument to take and which is taken by Trustee shall have the same effect and protections contained in this Instrument as if such action had been taken by Lender.

38. FINANCING STATEMENT. This Instrument is intended to be a financing statement complying with the formal requisites therefore as set forth in the Uniform Commercial Code. For that purpose, the name and address of the debtor is the name and address of Borrower (Filing No. W89066) set forth on page 1 of this Instrument and the name and address of the secured party is the name and address of the Lender (Filing No. C127163) as set forth on page 1 of this Instrument. This financing statement covers those types of items specified above as part of the Property which, under applicable law, may be subject to a security interest pursuant to the Uniform Commercial Code, and in which Borrower has granted to Lender a security interest under paragraph 15 of this Instrument, including the proceeds and products from

any and all such Property. This financing statement also covers goods which are or may become fixtures on the Tract and is to be recorded in the real estate records of the county recorder in each county in which a portion of the Property is located. Borrower is the record owner of the Tract.

39. ATTORNEY-IN FACT. Borrower hereby irrevocably appoints Lender, and its successors and assigns, as its attorney-in-fact, which agency is coupled with an interest, (a) to execute and/or record any notices of completion, cessation of labor, or any other notices that Lender deems appropriate to protect Lender's interest, if Borrower shall fail to do so within ten (10) days after written request by Lender, (b) upon the issuance of a deed pursuant to the foreclosure of this Instrument or the delivery of a deed in lieu of foreclosure, to execute all instruments or assignments, conveyances or further assurances as may be necessary or desirable for such purpose, (c) to prepare, execute and file or record financing statements, continuation statements, applications for registration and like papers necessary to create, perfect or preserve Lender's security interests and rights in or to any of the Property, and (d) while any Event of Default exists, to perform any obligation of Borrower hereunder; provided, however: (1) Lender shall not under any circumstances be obligated to perform any obligation of Borrower; (2) any sums advanced by Lender in such performance shall be included in the Obligations and shall bear interest at a default rate of 10%; (3) Lender as such attorney-in-fact shall only be accountable for such funds as are actually received by Lender; and (4) Lender shall not be liable to Borrower or any other person or entity for any failure to take any action which it is empowered to take under this paragraph 39. Lender, as agent for Borrower under the powers of attorney, is not a fiduciary for Borrower. Lender, in exercising any of its rights or powers pursuant to the powers of attorney, may do so for the sole benefit of Lender and not for Borrower.

40. DUE ON SALE OR ENCUMBRANCE.

a. Notwithstanding anything to the contrary contained in the Note, the buyout option and right of first refusal among Borrower and its Members contained in the Operating Agreement of even date herewith (the "Purchase Option") shall not constitute a breach or default under the Note. It is understood that the Purchase Option will be subject, subordinate, and inferior to the liens and security interests of the Note, and that the exercise of any rights thereunder will be subject to the terms of the Note.

b. Notwithstanding anything to the contrary contained in the Note, the SM will have the right to replace the managing member of Borrower under the terms and conditions in the Operating Agreement. Such replacement of the managing member of Borrower shall not constitute a breach or default under the Note. The Lender shall not charge any approval, review or similar fee respecting such transfer.

c. Notwithstanding anything to the contrary in the Note, the IM may assign all or a portion of its interests in Borrower under the Operating Agreement, pursuant to the terms of the Operating Agreement, to another investor so long as the managing member of the Borrower consents. Such assignment shall be effective upon satisfaction of the conditions in the

Operating Agreement. The Lender shall not charge any approval, review or similar fee respecting such transfer.

41. **CONFLICTS WITH NOTE.** If any of the provisions of this Instrument conflict in any respect with the provisions of the Note and cannot be reconciled, the provisions of the Note shall control over provisions of this Instrument.

42. **CONFLICTING PROVISIONS.** In the event of any inconsistencies between the terms and conditions of the following paragraphs and the other terms and conditions of this Instrument, the terms and conditions of the following paragraphs shall control and be binding:

a. **NOT A RESIDENTIAL TRUST DEED.** Borrower covenants and warrants to Lender that this Instrument is not a "residential trust deed" within the meaning of ORS 86.705.

b. **ORS 93.040 DISCLOSURE.** This notice is given pursuant to ORS 93.040, which states: **BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.**

c. **ORS 41.580 DISCLOSURE.** This notice is given pursuant to ORS 41.580, which states: **UNDER OREGON LAW, MOST AGREEMENTS, PROMISES AND COMMITMENTS MADE BY US CONCERNING LOANS AND OTHER CREDIT EXTENSIONS WHICH ARE NOT FOR PERSONAL, FAMILY OR HOUSEHOLD PURPOSES OR SECURED SOLELY BY THE BORROWER'S RESIDENCE MUST BE IN WRITING, EXPRESS CONSIDERATION AND BE SIGNED BY US TO BE ENFORCEABLE.**

IN WITNESS WHEREOF, BORROWER has executed this Instrument or has caused the same to be executed by its representatives thereunto duly authorized.

**BORROWER:**

NORTHWEST HIGH VALLEY ESTATES LLC

By: COMMUNITY DEVELOPMENT OF OREGON IV  
LLC  
Its Managing Member

By: Northwest Real Estate Capital Corp.  
Its Manager

By: Brad A. Elg  
Brad A. Elg, President

STATE OF IDAHO )  
 ) ss.  
County of Ada )

On this 20th day of December, 2012, before me, Kimberly Yelm, a Notary Public in and for said State, personally appeared Brad A. Elg, known or identified to me to be the President of Northwest Real Estate Capital Corp., an Idaho nonprofit corporation, which nonprofit corporation is the manager of Community Development of Oregon IV LLC, an Idaho limited liability company, which limited liability company is the managing member of **NORTHWEST HIGH VALLEY ESTATES LLC**, an Idaho limited liability company, or the person who executed the instrument on behalf of said limited liability company and acknowledged to me that such limited liability company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Kimberly Yelm  
Notary Public for Idaho  
Residing at Meridian, ID  
My commission expires 6/15/2013

## **EXHIBIT A**

**LEGAL DESCRIPTION:** Real property in the County of Klamath, State of Oregon, described as follows:

**A portion of Tract 31, ENTERPRISE TRACTS, in the County of Klamath, State of Oregon, more particularly described as follows:**

Commencing at the Northeast corner of Lot 37 ENTERPRISE TRACTS, thence South 00° 15' 30" East, along the centerline of Avalon Street, 355.75 feet; thence South 56° 38' 10" East, 36.03 feet to a point on the East boundary of said street for the true point of beginning; thence South 56° 38' 10" East 108.05 feet; thence South 73° 31' 10" East, 41.51 feet; thence North 79° 52' East, 103.20 feet; thence North 70° 29' 20" East, 154.58 feet; thence North 89° 25' 40" East 82.78 feet; thence North 1° 24' 20" West 31.01 feet; thence North 89° 25' 40" East 50.00 feet; thence North 134.58 feet to a point on the Southwesterly boundary of the U.S.R.S. "A" Canal; thence along said canal boundary North 81° 17' West 23.93 feet; thence 94.98 feet along the arc of a curve right (which arc has a radius of 433.10 feet and a long chord of North 78° 00' 07" West 94.79 feet; thence South 00° 15' 30" East 59.01 feet; thence South 89° 44' 30" West 395.00 feet to a point on the East boundary of Avalon Street; thence along said boundary South 00° 15' 30" East, 132.87 feet to the true point of beginning.

Together with Easement Agreement which recorded May 21, 2003 in Volume M03 Page 34428, records of Klamath County, Oregon