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**CNG/W10-05-01**

May 14, 2010

Mr. David Danner,  
Executive Director & Secretary  
Washington Utilities & Transportation Commission  
1300 S. Evergreen Park Drive SW  
Olympia, WA 98504-9022

Dear Mr. Danner:

In compliance with WAC 480-143-120, please find enclosed Cascade Natural Gas Corporation's request for authorization to sell the Company's Seattle general office building and property. On March 31, 2010, Cascade entered into an agreement with Touchstone Corporation to sell the property at a price of \$9,200,000. A copy of the proposed purchase and sale agreement is included as Exhibit 1. Details of the original costs and the disbursement of anticipated proceeds are shown in Exhibit 2.

Cascade has purchased land and is building a LEED certified facility in the Kennewick area where it will be relocating its headquarters around September 2010. Upon completion of the move to Kennewick, the Seattle building and property will no longer be useful or necessary in the performance of Cascade's duties to the public.

If there are any questions regarding this filing please contact Katherine Barnard or myself.

Sincerely,

Jon T. Stoltz  
Sr. Vice President  
Regulatory & Gas Supply

Enclosure

*"In The Community To Serve"*

**Before the**  
**WASHINGTON UTILITIES & TRANSPORTATION COMMISSION**

**APPLICATION FOR APPROVAL TO SELL COMPANY  
FACILITIES**

**Cascade Natural Gas Corporation**

**May 14, 2010**

**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION  
COMMISSION**

In the Matter of the Petition of	)	DOCKET NO. UG-_____
	)	
CASCADE NATURAL GAS	)	PETITION OF
CORPORATION,	)	
Application for Approval to Sell	)	CASCADE NATURAL GAS
Company Facilities.	)	CORPORATION
	)	
	)	

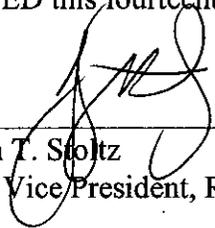
In accordance with the provision of WAC 480-143-120, Cascade Natural Gas Corporation (“Cascade” or “Company”), requests authorization to sell its General Office and the Property in Seattle. The company is relocating its headquarters to the Kennewick in September 2010 and the Seattle office and associated property will no longer be needed.

The Seattle General office land and buildings consist of the 222 Fairview Ave N building, the 230 Fairview Ave N Building, along with the parking lots located behind the buildings. The 222 Fairview Ave N building is the original headquarters for Cascade and was constructed in 1957. In 1986, the Company acquired the adjacent property at 230 Fairview and the offices were combined. The Seattle office was in need of extensive renovations and as a result, the Company began reviewing alternatives, including relocating the Company’s headquarters outside of the Seattle metropolitan area since the company does not offer service in the greater Seattle area. Among the alternatives reviewed were sites in Seattle, Mount Vernon and Kennewick areas and ultimately a site in the Kennewick area was chosen. The company is currently in the process of constructing a new LEED certified office that is scheduled to be completed in the August/September 2010 time period. Cascade has received and accepted an offer to sell the Seattle properties, a copy of the proposed agreement is included as Exhibit 1. The proposed agreement requests a July 31, 2010 closing date however, it allows the Company to continue to occupy the facilities, rent free until the Company’s Kennewick facilities are completed. Therefore, sale of the general office property will have no impact on the Company’s ability to provide service to its customers.

Details of the costs of the property as reflected on the Company’s books are included as Exhibit 2 to this application. The financial statements of Cascade Natural Gas Corporation are on file with the Commission.

For the reasons stated herein, the Company respectfully requests authorization to sell its Seattle business office building and property.

DATED this fourteenth day of May, 2010.



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Jon T. Stoltz  
Sr. Vice President, Regulatory and Gas Supply

## REAL ESTATE PURCHASE AND SALE AGREEMENT

This REAL ESTATE PURCHASE AND SALE AGREEMENT (this "**Agreement**") is entered into as of March 31, 2010, between CASCADE NATURAL GAS CORPORATION, a Washington Corporation ("**Seller**"), and Touchstone Corporation, a Washington corporation ("**Buyer**").

### **AGREEMENT**

For valuable consideration, the receipt and sufficiency of which is acknowledged, Seller and Buyer agree as follows:

1. **Property.** Seller agrees to sell and convey to Buyer and Buyer agrees to purchase from Seller, subject to the terms and conditions set forth in this Agreement, the following:

1.1 **Land.** Those certain parcels of real property located in the City of Seattle, King County, Washington, more particularly described in Exhibit A attached to this Agreement, together with all mineral, oil, gas, hydrocarbon substances, development rights, air rights, water rights, and water stock owned by Seller relating to the real property; all easements and rights of way owned by Seller that are appurtenant to the real property or any improvements on the real property, and any appurtenance, or the operation, use or enjoyment of any of the foregoing, all rights of Seller in and to streets, sidewalks, alleys, driveways, parking areas, and areas adjacent thereto or used in connection therewith and any land lying in the bed of any existing or proposed street adjacent to such land (collectively the "**Land**"); and

1.2 **Improvements.** Any and all buildings, fixtures, structures, landscaping, and other improvements located upon the Land (the "**Improvements**").

The Land and Improvements are collectively referred to in this Agreement as the "**Property.**"

All personal property owned by Seller located within or used in connection with the operation of the Improvements, including the two gas generators on the Land and all furniture and furnishings, shall be excluded from the sale and retained by Seller; provided that any personal property that Seller does not remove from the Property on or before the date that Seller vacates the Property at the end of the term of the Lease Agreement (as defined in Section 4.3.7) shall become the property of Buyer, as landlord under the Lease Agreement.

2. **Deposit; Purchase Price.**

2.1 **Deposit.** Within three (3) business days after the date on which the last party executes this Agreement (the "**Effective Date**"), Buyer shall deliver to First American Title Insurance Company in Seattle, Washington ("**Title Company**"), as escrow agent for the closing of this transaction, a cash deposit in the amount of Four Hundred Thousand Dollars (\$400,000)

(the “**Deposit**”) as earnest money (the “**Earnest Money**”) in part payment for the purchase price of the Property. The Deposit will be held by Title Company for the benefit of the parties pursuant to the terms of this Agreement. If Buyer chooses to set up the Deposit to be held by Title Company in an interest-bearing account, then interest will accrue on the Deposit for the benefit of Buyer; provided, however, if Buyer forfeits the Deposit to Seller pursuant to the terms of this Agreement, then all interest accrued on the Deposit will be paid to Seller.

2.2 **Purchase Price.** At closing, Buyer will pay Seller the purchase price of Nine Million Two Hundred Thousand Dollars (\$9,200,000) (“**Purchase Price**”) for the Property as follows:

(a) One Million Eight Hundred Thousand Dollars (\$1,800,000) of the Purchase Price will be paid in cash at closing (inclusive of the Deposit) (“**Down Payment**”), and

(b) Buyer shall execute and deliver at Closing a promissory note in favor of Seller for the balance of the Purchase Price (the “**Principal Amount**”), in the form attached hereto as Exhibit B (the “**Note**”). The Note shall be secured by a first lien deed of trust on the Property in the form attached hereto as Exhibit C (the “**Deed of Trust**”) and a guaranty in the form attached hereto as Exhibit D (the “**Guaranty**”). At Closing, Buyer will provide Seller, at Buyer’s cost, a mortgagee’s title insurance policy (form 2006) issued by Title Company, naming Seller as insured mortgagee and insuring that Seller has a first lien with no general or special exceptions other than the Permitted Exceptions, in the amount of the face amount of the Note.

### 3. **Title to Property.**

3.1 **Conveyance.** At closing, Seller shall convey to Buyer fee simple title to the Property by duly executed and acknowledged statutory warranty deed (the “**Deed**”), subject only to real property taxes and assessments (to be prorated at closing as provided in subsection 6) and those exceptions that Buyer approves pursuant to subsection 3.2 (collectively, the “**Permitted Exceptions**”).

3.2 **Preliminary Commitment.** Seller shall order a preliminary commitment for an owner’s standard coverage policy of title insurance in the amount of the Purchase Price to be issued by Title Company and accompanied by copies of all documents referred to in the commitment (the “**Preliminary Commitment**”). Buyer shall advise Seller by written notice what exceptions to title, if any, are disapproved by Buyer (“**Disapproved Exceptions**”) within thirty (30) business days of receipt of the Preliminary Commitment and legible copies of all exceptions to title shown in the Preliminary Commitment. Seller will have ten (10) business days after receipt of Buyer’s notice to give Buyer notice that (a) Seller will remove Disapproved Exceptions or (b) Seller elects not to remove Disapproved Exceptions. If Seller fails to give Buyer notice before the expiration of the ten (10) business day period, Seller will be deemed to have elected not to remove Disapproved Exceptions.

If Seller elects not to remove any Disapproved Exceptions, Buyer will have until the expiration of the Feasibility Study Period to notify Seller of Buyer’s election either



(b) notice of any existing or threatened litigation affecting or relating to the Property and copies of any pleadings with respect to that litigation;

(c) all environmental assessment reports with respect to the Property, including any Phase I, Phase II, or geological studies or reports, of the Property;

(d) all tenant leases, and all lease files (including correspondence with existing tenants);

(e) all service contracts, if any, related to the operation and maintenance of the Improvements;

(f) all real and personal property tax statements and utility bills for calendar year 2009;

(g) all building permits and certificates of occupancy for the Improvements and all other governmental approvals, permits or licenses, if any, and copies of any written notices alleging any violations of any such permits, licenses, or other governmental regulations;

(h) any as-built plans and specifications of the Improvements;

(i) all maintenance or incident logs related to the Improvements and any installed equipment; and

(j) any structural or engineering reports related to the Improvements.

#### 4.2 Feasibility Study.

4.2.1 **Time period.** On or before the date which is ninety (90) days after mutual execution of this Agreement (the “**Feasibility Study Period**”), Buyer shall conduct a review with respect to the Property, the Due Diligence Materials, and any other information that Buyer determines appropriate and satisfy itself with respect to the condition of and other matters related to the Property and its suitability for Buyer’s intended use (the “**Feasibility Study**”).

The Feasibility Study may include all inspections and studies Buyer deems necessary or desirable in its sole discretion. Buyer and Buyer’s agents, representatives, consultants, architects and engineers will have the right, from time to time, from and after the Effective Date to enter onto the Property and conduct nondestructive and noninvasive tests and studies that may be necessary or desirable to ascertain the condition and suitability of the Property for Buyer’s intended use. Such tests and inspections are to be performed in a manner not disruptive to occupants or to the operation of the Property. Buyer shall protect, defend and indemnify Seller from and against any construction or other liens or encumbrances arising out of or in connection with its exercise of this right of entry and shall

cause any such liens or encumbrances to be promptly released. Buyer shall not perform any invasive or destructive testing on the Property without obtaining Seller's prior written consent.

**4.2.2 Termination of Agreement.** Buyer will have the right to terminate this Agreement if, in Buyer's sole discretion, the Property is not suitable for Buyer's intended use or does not meet Buyer's intended investment objectives. Buyer's right to terminate must be exercised by delivering written notice of its election to Seller on or before the expiration of the Feasibility Study Period. In the event Buyer does not complete the purchase, Buyer shall return the Property as near as is practicable to its original condition. If Buyer terminates this Agreement pursuant to this subsection 4.2.2, the Deposit will be returned to Buyer, this Agreement will terminate, and Seller and Buyer will be released from all further obligation or liability hereunder, except as otherwise specified by this Agreement and except for Buyer's obligations to indemnify Seller under subsections 4.2.1 and 4.2.4.

**4.2.3 Confidentiality of Studies and Reports.** Prior to closing of the purchase of the Property, Buyer will not distribute or divulge the information or materials it and its agents and consultants may generate in connection with the Feasibility Study to other persons except as may be required by law or as may be necessary or desirable in connection with Buyer's evaluation of the Property and its suitability; provided, that during this time period, no information or materials concerning wetlands or environmental matters will be divulged to any governmental entity without Seller's consent unless required by law. If Buyer elects not to purchase the Property, Buyer agrees that, except as may be required by law, it will not further divulge or further distribute the information and materials except with Seller's consent. Notwithstanding the foregoing, if Buyer elects not to purchase the Property and if Seller requests copies of the written reports and studies prepared for Buyer in connection with its Feasibility Study, then Buyer will deliver to Seller copies of the final reports and studies; provided, however, such delivery of the final reports and studies to Seller shall be made without representation or warranty of any kind by Buyer. Buyer will, in that event, cooperate reasonably with Seller to coordinate Seller's communications with the consultants, provided Buyer will not be obligated to bear any costs or expend more than a reasonable period of time in doing so.

**4.2.4 Buyer's Indemnification.** Buyer agrees to assume all liability for and to defend, indemnify and save Seller harmless from all liability and expense (including reasonable attorney fees) in connection with all liens, claims, suits and actions of every name, kind and description brought against Seller or its agents or employees by any person or entity as a result of or on account of injuries or damages to persons, entities and/or property received or sustained, arising out of, in connection with or as a result of the acts or omissions of Buyer or its agents or employees in exercising its rights under the right of entry granted in this subsection 4.2, except for claims resulting from Seller's negligence, and except that Buyer shall have no liability for and shall not indemnify or save Seller harmless from Buyer's mere discovery of an existing condition associated with the Property.

**4.3 Buyer's Contingencies.** Buyer's obligation to purchase the Property is expressly contingent upon and subject to satisfaction of the following:

**4.3.1 Feasibility Study.** Buyer's approval, prior to expiration of the Feasibility Study Period, of the suitability of the Property as a result of the Feasibility Study;

4.3.2 **Environmental condition.** Buyer's approval, prior to expiration of the Feasibility Study Period, of the environmental condition of the Property pursuant to subsection 9.2;

4.3.3 **Title Policy.** Buyer's receipt of Title Company's irrevocable commitment to issue, upon closing, the Title Policy as described in subsection 3.3;

4.3.4 **Representations and Warranties.** All of Seller's representations and warranties contained in or made pursuant to this Agreement being true and correct in all material respects when made and as of the Closing Date; and

4.3.5 **Seller's Compliance.** Seller's timely performance of all of its obligations under this Agreement; provided, however, that Seller will be given notice of any failure on its part to perform obligations pursuant to Seller's warranties made in subsection 8.1 and those obligations required of it during the Feasibility Study Period and will have a period of time that is reasonable under the circumstance to cure its nonperformance.

4.3.6 **No Change to Property.** As of the date of Closing there shall have been no material adverse change in the condition of the Property.

4.3.7 **Lease Agreement.** During the Feasibility Study Period, Buyer and Seller shall negotiate a mutually agreeable form of lease agreement (the "Lease Agreement") to be executed and delivered by Buyer, as landlord, and Seller, as tenant, at Closing. The Lease Agreement shall provide that Seller, as tenant, shall be conveyed a tenancy interest in the Property in accordance with the terms and conditions of the Lease Agreement for a term to be determined during the Feasibility Study Period. In addition, the Lease Agreement shall provide that during the Seller's occupancy of the Property as tenant, Seller shall not pay any base rent amount to Buyer, as landlord, but that Seller shall bear all of the costs of the Property, including payment of all taxes and assessments, maintenance and repair costs, utility and service costs, insurance premiums to insure the Property, and any other costs associated with the ownership and operation of the Property incurred during Seller's occupancy of the Property. In addition, the Lease Agreement shall provide that Seller shall have Purchaser, as landlord, named as an additional insured or loss payee, as appropriate, on Seller's casualty and general liability insurance policy or policies associated with the Property. Further, Seller, as tenant, shall be obligated to vacate the Property at the end of the term of the Lease Agreement in broom clean and good and operable condition, normal wear and tear excepted. Notwithstanding anything to the contrary contained herein, Seller, as tenant, shall have no obligation to make any capital repairs or improvements to the Property and Seller shall not be obligated to vacate the property in any better condition than it is on the date of Closing.

The foregoing conditions are collectively referred to in this Agreement as "**Buyer's Contingencies.**"

4.4 **Satisfaction/Waiver of Buyer's Contingencies.** Buyer's Contingencies are solely for the benefit of Buyer. If any of Buyer's Contingencies are not timely satisfied, Buyer will have the right, at its sole election, either to waive any of them in writing and proceed with the purchase or to terminate this Agreement. If Buyer elects to terminate this Agreement,

the escrow will be terminated, the Deposit must be promptly returned to Buyer, all documents and other funds will be returned to the party who deposited them, and neither party will have any further rights or obligations under this Agreement, except as otherwise provided in this Agreement and except that each party shall pay one-half (1/2) of the cost of terminating the escrow.

**4.5 Seller Contingencies.** Seller's obligation to sell the Property is expressly contingent upon the following:

**4.5.1 Regulatory Approval in Washington.** Seller obtaining approval of the transaction contemplated by this Agreement by the Washington Utilities and Transportation Commission in a form reasonably satisfactory to Seller; and

**4.5.2 Regulatory Approval in Oregon.** Seller obtaining approval of the transaction contemplated by this Agreement by the Oregon Public Utility Commission in a form reasonably satisfactory to Seller.

The foregoing conditions are collectively referred to in this Agreement as "**Seller Contingencies**".

**4.6 Satisfaction/Waiver of Seller's Contingencies.** Seller's Contingencies are solely for the benefit of Seller. If any of Seller's Contingencies are not timely satisfied, Seller will have the right, at its sole election, either to waive any of them in writing and proceed with the sale or to terminate this Agreement. If Seller elects to terminate this Agreement, the escrow will be terminated, the Deposit must be returned to Buyer, all documents and other funds will be returned to the party who deposited them, and neither party will have any further rights or obligations under this Agreement, except as otherwise provided in this Agreement and except that each party shall pay one-half (1/2) of the cost of terminating the escrow. If Seller is unable to satisfy the Seller Contingencies in subsections 4.5.1 and 4.5.2 in a form reasonably satisfactory to Seller, then Seller shall reimburse Buyer for Buyer's out-of-pocket due diligence cost up to \$60,000 to serve as reimbursement for Buyer's due diligence costs incurred during the Feasibility Study Period. Such due diligence costs shall only be reimbursable to the extent they are reasonably supported by appropriate documentation.

## **5. Closing.**

**5.1 Closing Date.** This transaction will be closed in escrow by Title Company acting as escrow agent ("**Escrow Agent**"). The closing will be held at the offices of Title Company on or before that date which is fifteen (15) days after the later of (a) the date that Seller satisfies the Seller Contingencies or (b) the date that Buyer satisfies or waives the Buyer's contingencies, but in any event no later than July 31, 2010 (the "**Closing Date**"). If closing does not occur on or before the Closing Date or any later date mutually agreed to in writing by Seller and Buyer, Escrow Agent will immediately terminate the escrow, forward the Deposit to the party entitled to receive it, as provided in this Agreement, and return all documents to the party that deposited them.

## **5.2 Closing.**

5.2.1 **Seller's Escrow Deposits.** On or before the Closing Date, Seller shall deposit into escrow the following:

- (a) the duly executed and acknowledged Deed;
- (b) a duly executed assignment of contracts and intangible personal property;
- (c) a duly executed bill of sale conveying any personal property that is a part of the Property, with warranty that such personal property is free and clear of any liens and encumbrances;
- (d) a duly executed and completed Real Estate Excise Tax Affidavit;
- (e) a nonforeign affidavit pursuant to Section 1445 of the Internal Revenue Code;
- (f) a duly executed lease agreement in the form mutually agreed upon pursuant to Section 4.3.7;
- (g) any other documents, instruments, records, correspondence and agreements called for hereunder that have not previously been delivered; and
- (h) a complete set of keys to the Property.

5.2.2 **Buyer's Escrow Deposits.** On or before the Closing Date, Buyer shall deposit into escrow the following:

- (a) cash or immediately available funds in an amount sufficient to pay the Down Payment, plus Buyer's share of closing costs,
- (b) a duly executed and completed Real Estate Excise Tax Affidavit;
- (c) a duly executed Promissory Note in the form of Exhibit B;
- (d) a duly executed Deed of Trust in the form of Exhibit C;
- (e) a duly executed Guaranty in the form of Exhibit D;
- (f) a duly executed lease in the form mutually agreed upon pursuant to Section 4.3.7; and
- (g) any other documents or instruments Buyer is obligated to provide pursuant to this Agreement (if any) in order to close this transaction.

5.2.3 **Additional Instruments and Documentation.** Seller and Buyer shall each deposit any other instruments and documents that are reasonably required by Escrow

Agent or otherwise required to close the escrow and consummate the purchase and sale of the Property in accordance with this Agreement.

### 5.3 Closing Costs.

5.3.1 **Seller's Costs.** Seller shall pay the State of Washington real estate excise taxes applicable to the sale, one-half of Title Company's escrow fee, and the premium for a standard coverage owner's policy of title insurance in the full amount of the Purchase Price.

5.3.2 **Buyer's Costs.** Buyer shall pay the cost of recording the Deed, one-half of Title Company's escrow fee, the premium for the mortgagee's title insurance policy as provided in subsection 2.2(b), the cost of completing an ALTA survey if desired by Buyer, and the premium in excess of the premium for the standard coverage owner's policy of title insurance for ALTA extended coverage if desired by Buyer.

5.4 **Foreign Investment in Property Tax Act.** The parties agree to comply in all respects with Section 1445 of the Internal Revenue Code and the regulations issued thereunder (the "**Regulations**"). Seller shall deliver to Buyer through escrow a nonforeign certificate as prescribed by the Regulations, properly executed and in form and content satisfactory to Buyer.

6. **Adjustments and Prorations.** Buyer and Seller hereby acknowledge and agree that Seller shall retain possession of the Property from and after Closing, as tenant, pursuant to the terms and conditions of the Lease Agreement. Pursuant to the Lease Agreement, Seller, as tenant, shall continue to bear the costs and expenses of ownership and operation of the Property as described in more detail in Section 4.3.7 above. Accordingly, there shall be no prorations as of Closing for property taxes, utilities, and any other costs and expenses of the Property, provided that Seller shall only be liable for property taxes attributable to its ownership of the Property prior to Closing and during its tenancy of the Property after Closing.

7. **Seller's Covenants.** During the continuance of this Agreement, until Closing or termination of this Agreement as herein provided, Seller covenants to perform in accordance with the following obligations:

7.1 Property Condition and Insurance. Seller shall maintain, repair, manage and operate the Property in a businesslike manner in accordance with Seller's prior practices. Seller shall keep the Property insured in accordance with Seller's prior practices up to the Closing Date.

7.2 Sell or Encumber Property. Seller shall not voluntarily sell, assign, or convey any right, title, or interest whatever in or to the Property to any third party or voluntarily create or permit to exist any lien, encumbrance, or charge thereon which will not be paid in full at Closing.

7.3 Representations and Warranties. Seller shall not take any action, or omit to take any action, which action or omission would have the effect of violating or rendering untrue any of its representations, warranties, covenants, and agreements contained herein.

7.4 Governmental Orders. Seller shall not violate any lawful order or directive of a governmental agency with respect to the Property.

7.5 Cooperation with Buyer. Seller shall confer, coordinate and cooperate with Buyer in every reasonable respect in connection with the satisfaction of the Buyer Contingencies.

7.6 Payments. Seller shall make any and all payments due and owing with respect to the Property, including without limitation, real estate taxes, assessments, insurance premiums, service contracts, management fees, and payments for materials and materialmen, prior to the due date for such payment and will, upon Buyer's request, deliver to Buyer evidence reasonably satisfactory to Buyer of payment thereof.

## 8. **Representations and Warranties.**

8.1 **Seller's Representations and Warranties.** Seller represents and warrants to Buyer as follows:

(a) Subject to obtain the regulatory approvals described in Sections 4.5.1 and 4.5.2 above, Seller has full power and authority to convey the Property to Buyer.

(b) Seller has not received notice of any special assessment or condemnation proceedings affecting the Property except as will be disclosed in the Preliminary Commitment.

(c) To the best of Seller's knowledge, there is no litigation pending or threatened against Seller that arises out of the ownership of the Property and that might materially and detrimentally affect (i) the use or operation of the Property for Buyer's intended use, (ii) the ability of Seller to perform its obligations under this Agreement, or (iii) the value of the Property.

(d) Seller is a corporation duly organized and validly existing under the laws of the state of Washington. This Agreement and all documents executed by Seller that are to be delivered to Buyer at closing are, or at the time of closing will be, (i) duly authorized, executed and delivered by Seller, (ii) legal, valid and binding obligations of Seller, (iii) sufficient to convey title (if they purport to do so), and (iv) in compliance with all provisions of all agreements and judicial orders to which Seller is a party or to which Seller or all or any portion of the Property is subject.

(e) Seller has received no written notice of any failure of Seller to comply with any applicable governmental requirements in respect of the use, occupation and construction of the Property, including, but not limited to, environmental, fire, health, safety, zoning, subdivision and other land use requirements that have not been corrected to the satisfaction of the appropriate governmental authority, and Seller has received no written notice of, and has no knowledge of, any violations or investigation relating to any such governmental requirement.

(f) Seller is not a foreign person as defined in Section 1445 of the Internal Revenue Code.

(g) All of the representations, warranties and covenants of Seller contained in this Agreement are true and correct as of the Effective Date and as of the Closing Date and will survive the closing of the transaction contemplated by this Agreement.

(h) To Seller's knowledge, there is no default or breach by Seller under any covenants, conditions, restrictions, rights-of-way, or easements which may affect the Property or any portion thereof. No condition exists which would result in the termination or impairment of access to the Property or discontinuation of necessary sewer, water, electric, gas, telephone, or other utilities.

(i) No work has been performed or is in progress at, and no materials have been furnished to, the Property which have not been paid for or will not be paid for in full by Seller prior to the Closing Date.

(j) There are no leases or other rights of possession affecting all or any part of the Property.

(k) To the actual knowledge of Thomas E. Headlee – Director of Administrative Services, without a duty of investigation or inquiry, and except as described on the attached Schedule 8.1(k):

- i. The Property has not been affected by the presence of, and there is not present, oil, hazardous waste, toxic substances or other pollutants or materials that could be a detriment to the Property or in violation of any local, state or federal law or regulation, and there are no potentially hazardous environmental conditions which would affect the Property. Neither Seller nor any other user or occupant of any part of the Property known to Seller has ever been cited for violating any federal, state or local environmental law or regulation with respect to operations or activities on or about the Property; and all reports, test results, and other documents relating to the presence or absence of hazardous materials on or about the Property are being delivered to Purchaser concurrently herewith.
- ii. There is not any soils condition adversely affecting the Property.
- iii. There are no underground storage tanks on the Property, nor have underground storage tanks been removed from the Property.

(l) Seller has not made a general assignment for the benefit of creditors, filed any voluntary petition in bankruptcy or suffered the filing of an involuntary petition by its creditors, suffered the appointment of a receiver to take possession of substantially all of its assets, suffered the attachment or other judicial seizure of substantially all of its assets,

admitted its inability to pay its debts as they come due, or made an offer of settlement, extension or composition to its creditors generally.

**8.2 “AS-IS” Sale; Limitation; Disclaimer Notice.** Pursuant to this Agreement, Buyer and its representatives (including environmental consultants, architects and engineers) have been or will be afforded the right and opportunity to enter upon the Property and to make such inspections of the Property and matters related thereto, including the conduct of soil, environmental and engineering tests, as Buyer and its representatives desire, subject to the provisions of subsection 4.2. Buyer acknowledges that notwithstanding any prior or contemporaneous oral or written representations, statements, documents or understandings, this Agreement constitutes the entire understanding of the parties with respect to the subject matter hereof and supersedes any such prior or contemporaneous oral or written representations, statements, documents or understandings. Buyer further acknowledges that, except as set forth in subsection 8.1 or the conveyance documents (i) neither Seller, nor any principal, agent, attorney, employee, broker or other representative of Seller has made any representations or warranties of any kind whatsoever regarding the Property, either express or implied, and (ii) Buyer is not relying on any warranty, representation or covenant, express or implied, with respect to the Property, except as set forth in subsection 8.1 or the conveyance documents, and agrees that Buyer is acquiring the Property in wholly an “AS-IS” condition with all faults and waives all contrary rights and remedies available to it under state and federal law. Buyer represents that it is knowledgeable in real estate matters and that upon completion of the inspections contemplated or permitted by this Agreement, Buyer will have made all of the investigations and inspections Buyer deems necessary in connection with its purchase of the Property, and that approval by Buyer of such inspections pursuant to this Agreement will be deemed approval by Buyer without reservation of all aspects of this transaction, including but not limited to the physical condition of the Property and the use, title and the financial aspects of the operation of the Property. Except for the representations and warranties contained in subsection 8.1 and in the conveyance documents, Buyer hereby waives, relinquishes and releases any and all rights, claims and causes of action, including rights of contribution or indemnity which Buyer may have or may be entitled to assert against Seller under or with respect to the Property or the condition thereof.

**8.3 Buyer’s Representations and Warranties.** Buyer represents and warrants to Seller as follows:

(a) Buyer is a corporation, duly organized and validly existing under the laws of the state of Washington; this Agreement and all documents executed by Buyer that are to be delivered to Seller at closing are, or at the time of closing will be (i) duly authorized, executed and delivered by Buyer, (ii) legal, valid and binding obligations of Buyer, and (iii) in compliance with all provisions of all agreements and judicial orders to which Buyer is a party or to which Buyer is subject.

(b) In connection with its Feasibility Study, Buyer will inspect those aspects of the Property, including, without limitation, its physical condition, that Buyer deems necessary in order to make a determination whether to purchase the Property; provided, however, such inspection and determination by Buyer shall not void any of the Seller’s representations and warranties or other obligations set forth in this Agreement.

(c) The Buyer's financial statements for each of the years ended 2007, 2008, and 2009, true and complete copies of which have been delivered to Seller, present fairly, in all material respects, the financial position, assets and liabilities of the Buyer as of the dates thereof and the revenues, expenses, results of operations and cash flows of the Buyer for the periods covered thereby, all in accordance with generally accepted accounting principles consistently applied. If any of the foregoing financial statements have not been delivered to Seller by the Effective Date, Buyer shall cause them to be delivered to Seller within two (2) business days following the Effective Date.

(d) As of the date of this Agreement, Buyer is not aware of any default by Seller of any representation or warranty set forth in this Agreement.

## 9. Hazardous Materials.

9.1 **Seller's Disclaimer.** Although no specific environmental concerns were found during Seller's previous evaluation of the Property, there may be environmental concerns present due to historic uses of the Property and adjacent properties. Except as otherwise provided in Sections 8.1 and 8.2 of this Agreement, Seller does not warrant or covenant the absence of any environmental concerns on the Property. Furthermore, Seller has not released or waived and will not release or waive the liability of any previous owner, lessee or operator of the Property or any party who may be potentially responsible for the presence or removal of Hazardous Materials on or about the Property. Except as otherwise provided in Sections 8.1 and 8.2 of this Agreement, Seller has made no promises of indemnification regarding Hazardous Materials on the Property to any party. For the purpose of this Agreement, "**Hazardous Materials**" shall mean (i) any radioactive materials; (ii) any substance or material the transportation, storage, treatment, handling, use, removal or release of which is subject to any environmental law; or (iii) any substance or material for which standards of conduct are imposed under any Environmental Law. Without limiting the generality of the foregoing, Hazardous Materials includes: asbestos and asbestos-containing materials (whether or not friable); urea-formaldehyde in any of its forms; polychlorinated biphenyls; oil, used oil; petroleum products and their by-products; lead-based paint; radon; and any substances defined as "hazardous waste," "hazardous substances," "pollutants or contaminants," "toxic substances," "hazardous chemicals," "hazardous pollutants," or "toxic chemicals" under any law, statute, ordinance or regulation governing environmental matters or hazardous materials.

9.2 **Buyer's Environmental Inspection.** During the Feasibility Study Period, Buyer will have the right, subject to subsection 4.2, to take soil and water samples (including groundwater samples) from the Property, and to test and analyze those samples to determine the extent of any contamination of the soils and water (including groundwater) on or about the Property. If, based on the results of those inspections and/or tests, Buyer determines that the condition of the Property is unsatisfactory or if Buyer believes that its ownership of the Property would expose Buyer to undue risks of government intervention or third-party liability, Buyer may, by written notice to Seller given before the end of the Feasibility Study Period, without liability, cancel the purchase of the Property and terminate this Agreement.

10. **Casualty Loss.** Following the occurrence of any event prior to the Closing Date, causing damage to or destruction of the Property or any portion of the Property, Seller shall

promptly notify Buyer of such occurrence. Under any such circumstances the provisions of this Section 10 will apply. Seller's obligations in connection with casualty loss during its occupancy and use of the Property from and after Closing shall be governed by the terms and conditions of the Lease Agreement.

**10.1 Minor Casualty Loss.** If the amount of any casualty loss referred to above in this Section 10 is not more than Five Hundred Thousand Dollars (\$500,000), the obligation of each party under this Agreement will continue, notwithstanding any such casualty, the rights to all insurance proceeds collectible by reason of such loss and not collected prior to closing will at closing be assigned to Buyer, and the Purchase Price will be paid subject to credit for any deductible amounts or uninsured losses incurred or to be incurred by Buyer in connection with such casualty loss. Buyer and Seller will under such circumstances cooperate in settlement of such claims and any proceeds collected prior to closing will, consistent with the circumstances, be applied to any reconstruction or be offset against the portion of the Purchase Price paid at closing.

**10.2 Substantial Casualty Loss.** If the amount of any casualty loss is more than Five Hundred Thousand Dollars (\$500,000), Buyer will have the right to terminate this Agreement in the manner specified by this subsection 10.2. Such election may be exercised only by giving written notice of termination to the Seller within fourteen (14) days after receipt of actual notice of such casualty loss. Such notice of casualty will be effective to commence the running of this termination period only if such notice specifically provides that it is being given pursuant to this subsection 10.2. Upon effective exercise of such termination election by either party, this Agreement will terminate, and the Earnest Money will be returned to Buyer. If, in the event of any such casualty, Buyer does not exercise the right to terminate provided for by this subsection 10.2, such right will lapse, and the provisions of subsection 10.1 will apply.

**10.3 Eminent Domain.** If at any time after the Effective Date, Seller receives any notice of any condemnation proceedings, or other proceedings in the nature of eminent domain, it will promptly send a copy of such notice to Buyer. If all or any part of the Property is taken by condemnation or eminent domain and the value of the portion of the Property so taken exceeds Five Hundred Thousand Dollars (\$500,000), Buyer may, upon written notice to Seller, elect to terminate this Agreement, and in such event all monies theretofore paid on account must be returned to Buyer, and neither party will have any further liability or obligation under this Agreement. If all or any portion of the Property has been or is hereafter condemned or taken by eminent domain and this Agreement is not canceled, Seller's right, title and interest in and to any awards in condemnation or eminent domain, or damages of any kind, to which Seller may have become entitled or may thereafter be entitled by reason of any exercise of the power of condemnation or eminent domain with respect to the Property or any portion thereof.

**11. Possession.** Seller shall retain possession of the Property from and after the Closing Date pursuant to the terms and conditions of the Lease Agreement.

**12. Events of Default.**

**12.1 By Seller.** If there is an event of default under this Agreement by Seller (including a breach of any representation, warranty or covenant), Buyer, as Buyer's sole remedy,

will be entitled: (a) to seek specific performance of Seller's obligations under this Agreement, provided, however, if the remedy of specific performance is not available to Buyer, then the Earnest Money shall be returned to Buyer and Seller shall reimburse Buyer for its due diligence costs incurred in connection with the transaction under this Agreement up to the amount of \$60,000, or (b) to terminate this Agreement by written notice to Seller and Escrow Agent, have the Earnest Money returned to Buyer, and receive reimbursement from Seller for Buyer's due diligence costs incurred in connection with the transactions under this Agreement up to the amount of \$60,000. If Buyer terminates this Agreement, the escrow will be terminated, the entire Deposit must immediately be returned to Buyer, all documents will be immediately returned to the party who deposited them, and neither party will have any further rights or obligations under this Agreement, except as otherwise provided in this Agreement except that Seller shall pay any costs of terminating the escrow and any cancellation fee for the Preliminary Commitment. If Buyer elects to pursue a claim for specific performance of Seller's obligations under this Agreement, any such claim must be commenced within ninety (90) days following the date of Seller's default. Buyer shall be deemed to have waived its right to seek specific performance if a claim for specific performance has not been filed with the appropriate court and served upon Seller within that 90-day period.

**12.2 By Buyer.** IN THE EVENT BUYER FAILS, WITHOUT LEGAL EXCUSE, TO COMPLETE THE PURCHASE OF THE PROPERTY, THE EARNEST MONEY DEPOSIT MADE BY BUYER WILL BE FORFEITED TO SELLER AS THE SOLE AND EXCLUSIVE REMEDY AVAILABLE TO SELLER FOR SUCH FAILURE.

\_\_\_\_\_  
Seller's Initials

\_\_\_\_\_  
Buyer's Initials

**13. Notices.** Any notice under this Agreement must be in writing and be personally delivered, delivered by recognized overnight courier service or given by mail or via facsimile. Any notice given by mail must be sent, postage prepaid, by certified or registered mail, return receipt requested. All notices must be addressed to the parties at the following addresses or at such other addresses as the parties may from time to time direct in writing:

Seller: Cascade Natural Gas Corporation  
222 Fairview Avenue North  
Seattle, Washington 98109  
Facsimile No.: 206-654-4052

with a copy to:

Karl Liepitz Esq.  
MDU Resources Group, Inc.  
1200 West Century Avenue  
Bismarck, ND 58503  
Facsimile No.: 701-530-1731

with a copy to:

Randall B. Bateman Esq.  
Bateman Seidel  
888 SW Fifth Avenue, Suite 1250  
Portland, OR 97204  
Facsimile No.: (503) 972-9950

Buyer: Douglas O. Howe, President  
Touchstone Corporation  
2025 1<sup>st</sup> Avenue, Suite 1212  
Seattle, WA 98121  
Facsimile No. (206) 727-2399

with a copy to:

Foster Pepper PLLC  
1111 Third Avenue, Suite 3400  
Seattle, Washington 98101  
Attn: Thomas J. Parkes  
Facsimile No.: 206-749-2043

Any notice will be deemed to have been given, if personally delivered, when delivered, and if delivered by courier service, one business day after deposit with the courier service, and if mailed, two (2) business days after deposit at any post office in the United States of America, and if delivered via facsimile, the same day as verified, provided that any verification that occurs after 5:00 p.m. on a business day, or at any time on a Saturday, Sunday or holiday, will be deemed to have occurred as of 9:00 a.m. on the following business day.

14. **Brokers and Finders.** Neither party has had any contact or dealings regarding the Property, or any communication in connection with the subject matter of this transaction, through any licensed real estate broker or other person who can claim a right to a commission or finder's fee as a procuring cause of the purchase and sale contemplated by this Agreement, except Colliers International, who has represented Seller, and whose commission must be paid by Seller through escrow at closing. If any other broker or finder perfects a claim for a commission or finder's fee based upon any other contract, dealings or communication, the party through whom the broker or finder makes his or her claim will be responsible for that commission or fee and shall indemnify, defend and hold harmless the other party from and against any liability, cost or damages (including attorney fees and costs) arising out of that claim.

15. **Amendments.** This Agreement may be amended or modified only by a written instrument executed by Seller and Buyer.

16. **Continuation and Survival of Representations and Warranties.** All representations and warranties by the respective parties contained in this Agreement or made in writing pursuant to this Agreement are intended to and will remain true and correct as of the time of closing, will be deemed to be material and will survive the execution and delivery of this

Agreement and the delivery of the Deed and transfer of title for a period of twelve (12) months, provided that the terms of Buyer's representations and warranties regarding the accuracy of its financial statements provided to Seller shall survive and continue until the Promissory Note has been fully satisfied and paid in full. Such representations and warranties, however, are not assignable and do not run with the land, except as may be expressly provided herein or contained in a written instrument signed by the party to be charged.

17. **Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the state of Washington.

18. **Entire Agreement.** This Agreement and the exhibits to it constitute the entire agreement between the parties with respect to the purchase and sale of the Property, and supersede all prior agreements and understandings between the parties relating to the subject matter of this Agreement.

19. **Attorney Fees.** If either party fails to perform any of its obligations under this Agreement or if a dispute arises concerning the meaning or interpretation of any provision of this Agreement, the defaulting party or the party not prevailing in the dispute, as the case may be, shall pay any and all costs and expenses incurred by the other party in enforcing or establishing its rights under this Agreement, including, without limitation, court costs and reasonable attorney fees incurred in connection with any federal, state or bankruptcy court proceeding.

20. **Time of the Essence.** Time is of the essence of this Agreement.

21. **Exclusivity.** Seller shall not market the Property actively until after the expiration of the Feasibility Study Period and then only if Buyer elects not to proceed with the purchase of the Property.

22. **Waiver.** Neither Seller's nor Buyer's waiver of the breach of any covenant under this Agreement will be construed as a waiver of the breach of any other covenants or as a waiver of a subsequent breach of the same covenant.

23. **Nonmerger.** The terms and provisions of this Agreement, including, without limitation, all indemnification obligations, will not merge in, but will survive, the closing of the transaction contemplated under this Agreement.

24. **Assignment.** Buyer shall not assign this Agreement without Seller's prior written consent, which consent may not be unreasonably withheld or delayed. Notwithstanding the foregoing, Buyer and Seller hereby agree that Buyer shall have the right to assign this Agreement to a single purpose limited liability company in which the principals of Buyer (who are also the guarantors under the Guaranty) have majority ownership and management control ("Buyer's SPE"). Upon the satisfaction or waiver of the Buyer's Contingencies and Seller's Contingencies set forth in Sections 4.3 and 4.5, respectively, Buyer shall promptly thereafter make the assignment to Buyer's SPE and shall provide Seller with a copy of such assignment. Upon such assignment, Buyer's SPE shall be deemed to be the Buyer under this Agreement for purposes of completing the Closing and for purposes of performing any post-Closing obligations of the Buyer.

25. **Negotiation and Construction.** This Agreement and each of its terms and provisions are deemed to have been explicitly negotiated between the parties, and the language in all parts of this Agreement will, in all cases, be construed according to its fair meaning and not strictly for or against either party.

26. **Calculation of Time Periods.** Unless otherwise specified, in computing any period of time described in this Agreement, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless such last day is a Saturday, Sunday or legal holiday. The final day of any such period will be deemed to end at 5 p.m., Pacific Time.

27. **Section 1031 Exchange.** Each party agrees to cooperate with the other and/or the other's principals in effectuating a like-kind exchange under Section 1031 of the Internal Revenue Code including the execution and delivery of customary exchange documents. Each party shall execute such documents as may be necessary or appropriate to assist with a contemporaneous or deferred exchange arrangement requested by the other on the conditions that the non-requesting party will have no liability whatsoever in connection with such exchange, the non-requesting party will not be required to incur any expense in connection therewith and that the requesting party indemnifies and holds the non-requesting party harmless from any such liability or expense, including all of the nonrequesting party's costs and attorney fees related thereto.

28. **Severability.** If any term or provision of this Agreement shall, to any extent, be held invalid or unenforceable, the remaining terms and provisions of this Agreement shall not be affected thereby, but each remaining term and provision shall be valid and enforced to the fullest extent permitted by law.

29. **Exhibits.** The following exhibits are attached to and made a part of this Agreement by this reference.

EXHIBIT A — Legal Description  
EXHIBIT B — Promissory Note  
EXHIBIT C — Deed of Trust  
EXHIBIT D — Guaranty  
SCHEDULE 8.1(k) – Environmental Matters

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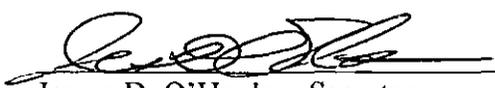
**[SIGNATURE PAGE TO AGREEMENT]**

IN WITNESS WHEREOF, Buyer and Seller executed this Agreement as of the date set forth above.

**CASCADE NATURAL GAS  
CORPORATION, a Washington  
corporation**

By:   
David L. Goodin   
President and Chief Executive Officer

**TOUCHSTONE CORPORATION,  
a Washington corporation**

By:   
James D. O'Hanlon, Secretary

**EXHIBIT A**  
**(Legal Description)**

LOTS 1 THROUGH 9 AND LOTS 11 AND 12, BLOCK 2, FAIRVIEW HOMESTEAD ASSOCIATION, FOR THE BENEFIT OF MECHANICS AND LABORERS, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 1 OF PLATS, PAGE 119, IN KING COUNTY, WASHINGTON; EXCEPT THE WEST 80 FEET OF THE NORTH 36 FEET OF SAID LOT 1.

**EXHIBIT B**

**(See the attached Note)**

NOTE

\$7,400,000

\_\_\_\_\_, 2010

FOR VALUE RECEIVED, the undersigned (“**Borrower**”) promises to pay in lawful money of the United States to the order of CASCADE NATURAL GAS CORPORATION, a Washington corporation (“**Holder**”), at 222 Fairview Avenue, North, Seattle, WA 98109, or at such other place as the Holder may from time-to-time designate in writing, the principal sum of SEVEN MILLION FOUR HUNDRED THOUSAND AND NO/100 DOLLARS (\$7,400,000), with interest thereon as provided below until paid from the dates and at the rates set forth below. Interest for each full calendar month during the term of this Note shall be calculated on the basis of a 360-day year and twelve 30-day months. Interest for any partial calendar month at the beginning or end of the term of this Note shall be calculated on the basis of a 365 or 366-day year, as the case may be, and the actual number of days in that month.

Borrower and Holder hereby agree that this Note shall not be assigned or transferred by Holder prior to December 31, 2010, without the express prior written consent of Borrower, except to a corporation, partnership, limited liability company or other legal entity which controls, is controlled by, or is under common control with Holder, or to any corporation, partnership, limited liability company or other legal entity resulting from a merger or consolidation with Holder, or to any entity which acquires substantially all of the assets of Holder’s business as a going concern.

**SECTION 1. Interest Rate.**

This Note shall bear interest as follows:

- A. From the date of this Note until the date that Cascade Natural Gas Corporation, as tenant under the Lease Agreement between Borrower, as landlord, and Cascade Natural Gas Corporation, as tenant, surrenders possession of the property described in the Deed of Trust (as hereinafter defined) to Borrower (the “**Interest Commencement Date**”), this Note shall not bear interest;
- B. From the Interest Commencement Date through the earlier of (i) the Maturity Date; (ii) the date that the principal amount of this Note is paid in full, or (iii) the date Holder accelerates the unpaid balance hereof due to a default by Borrower (the “**Final Payment Date**”), this Note shall bear interest at the rate of four percent (4.00%) per annum; and
- C. From the Final Payment Date until the principal amount of this Note, together with all accrued and unpaid interest thereon, is paid in full, this Note shall bear interest at the rate set forth in Section 5.

**SECTION 2. Monthly Payments.**

Payments of accrued interest only shall be due and payable monthly commencing on the first day of the month following the Interest Commencement Date, and on the same day of each and every calendar month thereafter until the Final Payment Date, at which time the principal balance and all accrued and unpaid interest thereon shall be paid in full. Assuming there is no principal prepayment during the term of this Note, the regular monthly interest payment will be TWENTY FOUR THOUSAND SIX HUNDRED SIXTY-SEVEN AND NO/100 DOLLARS (\$24,667).

**SECTION 3. Maturity.**

Unless sooner repaid, the entire unpaid principal balance of this Note, plus all accrued but unpaid interest, and all other amounts owing hereunder or under the Deed of Trust (as hereinafter defined) shall be due and payable in full on the date that is thirty (30) months after the Interest Commencement Date (the “**Maturity Date**”).

**SECTION 4. Prepayment.**

Borrower may prepay its obligation under this Note in full or in part at any time or from time to time without premium or penalty.

**SECTION 5. Default; Remedies.**

If any payment or installment is not made within ten (10) days of the scheduled payment date, then Holder shall be entitled to collect and Borrower agrees to pay with such payment a late charge equal to five percent (5%) of the amount of that overdue payment. The parties agree that such sum is a reasonable estimate of the damages to Holder for the failure to make timely payments. If any payment is not made within ten (10) days of Borrower’s receipt of written notice that such payment was not timely made to Holder, such failure shall constitute a default hereunder and, at the option of Holder, without prior notice, the entire indebtedness hereby represented shall immediately become due and payable and bear interest at the rate of twelve percent (12%) per annum until this Note is fully paid; provided, however, Holder shall only be obligated to provide Borrower with one (1) written notice during any twelve (12) consecutive month period, informing Borrower that a payment has not been timely made, and thereafter Borrower shall be in default if a monthly installment is not paid within ten (10) days of the date due. It is specifically acknowledged by Borrower that timely payments are of the essence of this Note.

If suit is brought on this Note, or if it is placed in the hands of an attorney for collection, after any default, Borrower promises and agrees to pay all costs of collection, including actual attorneys’ fees incurred thereby, whether or not a suit is filed.

Borrower and all endorsers and all persons liable or to become liable on this Note, waive demand, presentment and protest, waive notice of demand, protest, dishonor and nonpayment, consent to any and all renewals and extensions of the time and payment hereof and further agree that at any time the terms of payment hereof may be modified or security released by agreement

between Holder and Borrower without affecting the liability of any party to this Note or any person liable or to become liable with respect to any indebtedness evidenced thereby.

**SECTION 6. Miscellaneous.**

**ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT, MODIFY LOAN TERMS, OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.**

This Note is made with reference to and is to be construed in accordance with the laws of the state of Washington.

This Note is secured by a Deed of Trust, Security Agreement, Assignment of Leases and Rents, and Fixture Filing of even date herewith ("**Deed of Trust**"). A default under the Deed of Trust shall constitute a default under this Note and a default under this Note shall constitute a default under the Deed of Trust.

TOUCHSTONE CORPORATION,  
a Washington corporation

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT C**

**(See the attached Deed of Trust)**

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

THIS DEED OF TRUST, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING ("**Deed of Trust**") is made as of this \_\_\_\_ day of \_\_\_\_\_, 2010, by [ \_\_\_\_\_ ], a Washington limited liability company, as grantor and debtor ("**Grantor**"), whose address is 2025 First Avenue, Suite 1212, Seattle, Washington 98121, to FIRST AMERICAN TITLE INSURANCE COMPANY, as trustee ("**Trustee**"), whose address is 818 Stewart Street, Suite 800, Seattle, Washington 98101, for the benefit of CASCADE NATURAL GAS CORPORATION, a Washington corporation, as beneficiary and secured party ("**Beneficiary**"), whose address is 222 Fairview Avenue, North, Seattle, WA 98109.

WITNESSETH:

GRANTOR HEREBY IRREVOCABLY GRANTS, BARGAINS, SELLS, CONVEYS, TRANSFERS AND ASSIGNS:

A. To Trustee, in trust, with power of sale and right of entry and possession, all of its present and future estate, right, title and interest in and to that certain real property located in the city of Seattle, county of King, state of Washington, as more particularly described in Exhibit A, attached hereto and made a part hereof, including all hereditaments, appurtenances, easements and rights thereto or used in connection therewith or as a means of access thereto, together with all right, title and interest that Grantor now has or may hereafter acquire in the following and any proceeds thereof:

1. All leases, income, rents, royalties, revenues, issues, profits and proceeds from any and all of such real property, subject, however, to the right, power and authority hereinafter conferred upon Beneficiary or reserved to Grantor to collect and apply such income, rents, royalties, revenues, issues, profits and proceeds.
2. All deposits or other security or advanced payments, including, without limiting the generality of the foregoing, rental payments, made by or on behalf of Grantor to others with respect to (a) utility service for all or any part of said property or any improvements thereon, (b) insurance policies relating to said property or any improvements thereon, (c) cleaning, maintenance, repair or similar services for said property or any part thereof or any improvements thereon, (d) rental of equipment used in the operation of any part of said property or any improvements thereon, and (e) parking services for all or any part of said property.
3. All fixtures now or hereafter affixed to such real property, including all buildings, structures and improvements of every kind and description now or hereafter erected or placed thereon and any and all machinery, boilers, equipment (including, without limitation, all equipment for the generation or distribution of air, water, heat, electricity, light, telephone, fuel or refrigeration or for ventilating

or air conditioning purposes or for sanitary or drainage purposes or for the removal of dust, refuse or garbage), fire sprinklers and alarms, control devices, partitions, appliances, cabinets, awnings, window shades, blinds, drapes and drapery rods and brackets, screens, carpeting and other floor coverings, incinerators and other property of every kind and description now or hereafter placed, attached, affixed or installed in such buildings, structures or improvements, and all replacements, repairs, additions, accessions or substitutions or proceeds thereto or therefor; but excluding movable trade fixtures owned by tenants leasing space in the Improvements; all of such fixtures whether now or hereafter placed thereon, being hereby declared to be real property and referred to hereinafter as the "**Improvements.**"

4. All damages, royalties and revenue of every kind, nature and description whatsoever that Grantor may be entitled to receive from any person or entity owning or having or hereafter acquiring a right to the oil, gas or mineral rights and reservations of such real property, with the right in Beneficiary to receive and receipt therefor and apply the same to the indebtedness secured hereby either before or after any default hereunder, and Beneficiary shall have the right to demand, sue for and recover any such payments but shall not be required so to do.
5. All proceeds and claims arising on account of any damage to or taking of such real property or the Improvements or any part thereof, and all causes of action and recoveries for any loss or diminution in the value of such real property or the Improvements, including the proceeds of any policy of insurance covering such real property or the Improvements or the proceeds of any condemnation action or transfer in lieu of condemnation.

All of the property conveyed or intended to be conveyed to Trustee in Section A. above is hereinafter referred to as the "**Real Property.**"

B. To Beneficiary, as secured party, a security interest in any portion of the Real Property owned by Grantor which may be construed to be personal property and in all other personal property of every kind and description, whether now existing or hereafter acquired and owned by Grantor, or in which Grantor has an interest, now or at any time hereafter attached to, erected upon, situated in or upon, forming a part of, appurtenant to, used or useful in the construction or operation of or in connection with, or arising from the use or enjoyment of all or any portion of, or from any lease or agreement pertaining to, the Real Property, including:

1. All equipment, machinery, inventory, fixtures, fittings, appliances, apparatus, furnishings, furniture and all other property of every kind and any replacements thereof or additions thereto now or at any time appurtenant to or located upon the Real Property; all personal property of every kind now or at any time hereafter located on or appurtenant to the Real Property and used in connection with the use, enjoyment, occupancy or operation of the Real Property. Without limiting the foregoing general description, such property includes all equipment and facilities for the generation or distribution of air, water, heat, electricity, light,

fuel, telephone, or refrigeration, or for ventilation or air conditioning purposes or for sanitary drainage purposes or for the removal of dust, refuse or garbage, or for any activity related to the maintenance or repair of the Property, or for the pursuit of any other activity in which Grantor may be engaged on the Property, and including without limitation all motor vehicles owned, leased or used by Grantor, tools, musical instruments and systems, cabinets, awnings, window shades, venetian blinds, drapes and drapery rods and brackets, screens, carpeting and other window and floor coverings, decorative fixtures, plants, cleaning apparatus, and cleaning equipment, refrigeration equipment, cables, computers, software, books, supplies, kitchen equipment, tractors, lawn mowers, ground sweepers and tools, swimming pools, jacuzzis, recreational or play equipment together with all substitutions, accessions, repairs, additions and replacements to any of the foregoing.

2. All leases, income, rents, royalties, revenues, issues, profits and proceeds from any and all of the Real Property.
3. All goodwill, trademarks, trade names, all names by which the Property is operated or known, option rights, purchase contracts, goods, consumer goods, documents, books and records, rights of action whether known or unknown and general intangibles of Grantor relating to the Real Property, all accounts, deposit accounts, contract rights, instruments, chattel paper and other rights of Grantor for payment of money, for property sold or lent, for services rendered, for money lent, or for advances or deposits made, financial assets, and any other intangible property of Grantor related to the Real Property.
4. All water stock relating to the Real Property, shares of stock or other evidence of ownership of any part of the Real Property that is owned by Grantor in common with others, and all documents of membership in any owners' or members' association or similar group having responsibility for managing or operating any part of the Real Property.
5. All plans and specifications prepared for construction of the Improvements and all surveys, maps, plats, studies, data and drawings related thereto; and also all contracts and agreements of Grantor relating to such plans and specifications or to such studies, data and drawings, or to the construction, maintenance or repair of Improvements.
6. All licenses (including, but not limited to, any liquor licenses, operating licenses or similar matters), contracts, management contracts or agreements, franchise agreements, permits, authorization, approvals or certificates required or used in connection with the construction, ownership, operation, repair or maintenance of the Improvements.
7. All substitutions, accessions, additions and replacements to any of the foregoing; all proceeds of any of the foregoing property, including, without limitation,

proceeds of any voluntary or involuntary disposition, diminution in value or claim respecting any such property (pursuant to judgment, condemnation award or otherwise) and all goods, documents, general intangibles, chattel paper and accounts, wherever located, acquired with cash proceeds of any of the foregoing or proceeds thereof.

All of the property assigned or transferred or intended to be assigned or transferred to Beneficiary in Section B. above is hereinafter referred to as the "**Personal Property.**"

All of the Real Property and the Personal Property is referred to herein collectively as the "**Property.**" The parties intend that the definition of Property is to be broadly construed and in the case of doubt as to whether a particular item is included in the definition of Property, the doubt should be resolved in favor of inclusion.

TO HAVE AND TO HOLD said Property bargained and described, together with all and singular the lands, tenements, privileges, water rights, hereditaments and appurtenances thereto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all of the estate, right, title, claim and demands whatsoever of Grantor, either in law or in equity, of, in and to the above bargained property forever,

FOR THE PURPOSE OF SECURING:

ONE: Payment of the indebtedness evidenced by a Note of even date herewith and any renewals, extensions or modifications thereof and any replacements or substitutions therefor, in the original principal amount of SEVEN MILLION FOUR HUNDRED THOUSAND AND NO/100 UNITED STATES DOLLARS (\$7,400,000.00), executed by Grantor and delivered to Beneficiary (the "**Note**"), together with the interest thereon, and the fees and other charges as provided by the Note, which is made a part hereof by reference. The Note matures on the date that is thirty (30) months after the date that Beneficiary, as tenant under that certain Seller Lease of even date herewith between Grantor, as landlord, and Beneficiary, as tenant, (the "**Seller Lease**") surrenders possession of the Property to Grantor (the "**Interest Commencement Date**").

TWO: Payment of such further sums as Grantor may hereafter borrow from Beneficiary when evidenced by another note or instrument reciting it is so secured, payable to Beneficiary or order and made by Grantor or any successor in ownership, together with all extensions, renewals, modifications, amendments and replacements thereto.

THREE: Payment of all other amounts agreed or provided to be paid by Grantor and such further sums as may be advanced or loaned by Beneficiary to Grantor hereunder or under the Note or under the other Loan Documents (as defined below).

FOUR: Performance of each agreement of Grantor herein contained or contained in any other agreement given by Grantor to Beneficiary for the purpose of further securing any

indebtedness hereby secured (the Note, this Deed of Trust, and any and all such other agreements being referred to herein as the "**Loan Documents**").

GRANTOR REPRESENTS, WARRANTS, COVENANTS AND AGREES AS FOLLOWS:

## ARTICLE I

### COVENANTS

#### 1.01. Payment of Note and Performance of Deed of Trust.

Grantor will pay the principal, interest and other charges payable under the Note according to its terms, and will perform and comply with each and every term, covenant and condition hereof, and of the Note.

#### 1.02. Warranty of Title.

Grantor represents and warrants that at the time of the delivery of this Deed of Trust, (a) Grantor is seized in fee simple of the Real Property and owns outright every part thereof; (b) there are no liens or encumbrances against or upon the Real Property other than those permitted by Beneficiary on its mortgagee's policy of title insurance insuring the lien of this Deed of Trust (the "**Permitted Encumbrances**"), which Permitted Encumbrances are the same as those set forth in the owner's policy of title insurance provided by Beneficiary to Grantor in connection with Beneficiary's sale of the Property to Grantor, and none will be created or suffered to be created by Grantor during the term of this Deed of Trust, except as have been disclosed to and approved by Beneficiary in writing and upon such terms and conditions as may be satisfactory to Beneficiary; (c) Grantor has good right to make this Deed of Trust; (d) Grantor has good and absolute title to all existing Personal Property, and has good right, full power and lawful authority to convey and encumber the same in the manner and form conveyed and encumbered hereby; (e) the Personal Property is free and clear of all liens, charges, and encumbrances whatsoever, including, security agreements, conditional sales contracts and anything of a similar nature, and none will be created or suffered to be created by Grantor; (f) there is no financing statement covering the Property, or any part thereof, on file in any public office; (g) the Real Property constitutes one or more tax parcels, each with a separate tax assessment independent of any land or improvements not covered by this Deed of Trust; (h) the Real Property constitutes one or more legal lots capable of being conveyed without violation of any subdivision or platting laws or regulations; (i) Grantor will warrant and forever defend the title to the Property against the claims of all persons whomsoever; and (j) Grantor has fully disclosed to Beneficiary all facts material to the Property and other security for the Note, to Grantor and its business operations and to any guarantor of the Note.

#### 1.03. Impounds.

If required by Beneficiary after December 31, 2010, Grantor will pay to Beneficiary or its servicing agent on the first day of each month commencing January 2, 2011, together with and in

addition to the regular installments due under the Note, an amount equal to such portion of the yearly taxes, assessments, other similar charges (including any amounts which may become payable to Grantor pursuant to subsection 1.05 hereof), and insurance premiums as reasonably estimated by Beneficiary or by Beneficiary's servicing agent to be sufficient to allow the payment at least thirty (30) days before they become due of all taxes, assessments, other similar charges and insurance premiums related to the Property; provided, however, Beneficiary hereby agrees that it shall not require any such impounds unless and until there is an uncured Event of Default by Grantor under this Deed of Trust. The arrangement provided for in this subsection 1.03 is solely for the added protection of Beneficiary and entails no responsibility on Beneficiary's part beyond the allowing of due credit, without payment of interest or income to Grantor, unless specifically required by law, for the sums actually received by it. Those sums received, but not immediately required for payment of the items set forth above, may be commingled with the other funds of Beneficiary and may be invested or otherwise used by Beneficiary without payment to or on behalf of Grantor until such time as payment of the items set forth above is required. Upon demand of Beneficiary or its servicing agent, Grantor shall promptly deliver to Beneficiary or its servicing agent such additional sums as are necessary to make up any deficiency in the amount necessary to pay such taxes, assessments, other similar charges and insurance premiums in a timely manner. Upon assignment of this Deed of Trust by Beneficiary, any funds on hand shall be turned over to the assignee and any responsibility of the assignor with respect thereto shall terminate. Each transfer of the Real Property shall automatically transfer to the grantee all rights of the grantor with respect to any funds accumulated hereunder.

1.04. Taxes, Liens and Other Charges.

Grantor will pay when due:

- (a) All taxes, assessments and other governmental or public charges affecting the Property, including any accrued interest, cost or penalty thereon and will submit receipts therefor to Beneficiary at least ten (10) days before delinquency;
- (b) All encumbrances (including any debt secured by deeds of trust), ground rents, liens or charges, with interest, on the Property or any part thereof, and all costs and fees related thereto (provided that nothing in this subsection 1.04(b) shall be construed as a consent by Beneficiary to any such encumbrances, ground rents, liens, or charges). Grantor shall have the right to contest the amount or validity, in whole or in part, of any such encumbrances, liens, or charges by appropriate proceedings conducted in good faith and with due diligence, in which event, Grantor, upon prior written notice to Beneficiary, may postpone or defer payment of such encumbrance, lien, or charge, if and as long as
  - (i) such proceedings shall operate to prevent the collection of the encumbrance, lien, or charge;
  - (ii) neither the Property nor any part thereof would by reason of such postponement or deferment be in danger of being forfeited or lost; and

- (iii) Grantor, before the date such encumbrance, lien, or charge becomes delinquent, gives such reasonable security as may be requested by Beneficiary to insure payment of such encumbrance, lien, or charge and prevent any forfeiture or loss of the Property or any part thereof;
- (c) All charges for utilities or services, including, but not limited to, electricity, gas, garbage, sewer and water; and
- (d) All costs, fees and expenses of this Deed of Trust, including cost of evidence of title, Trustee fees and attorney fees required to be paid herein.

Grantor's obligations under subsection 1.04(a) shall be deemed satisfied if Grantor has promptly and properly paid all of such amounts to Beneficiary or its servicing agent pursuant to subsection 1.03 hereof.

#### 1.05. Further Taxes.

In the event of the passage, after the date of this Deed of Trust, of any law deducting from the value of the Property for the purposes of taxation, any lien thereon, or changing in any way the laws now in force for the taxation of deeds of trust or debts secured by deeds of trust, or the manner of the collection of any such taxes, so as to affect the Beneficiary's interest in this Deed of Trust, or imposing payment of the whole or any portion of any taxes, assessments or other similar charges against the Property upon Beneficiary, the indebtedness secured hereby shall immediately become due and payable at the option of Beneficiary; provided, however, that such election by Beneficiary shall be ineffective if such law either (a) shall not impose a tax upon Beneficiary nor increase any tax now payable by Beneficiary or (b) shall impose a tax upon Beneficiary or increase any tax now payable by Beneficiary and prior to the due date of such tax: (i) Grantor is permitted by law and can become legally obligated to pay such tax or the increased portion thereof (in addition to all interest, and other charges payable hereunder and under the Note) without exceeding the limits imposed by applicable interest rate laws; (ii) Grantor does pay such tax or increased portion; and (iii) Grantor agrees with Beneficiary in writing to pay, or reimburse Beneficiary for the payment of, any such tax or increased portion thereof when thereafter levied or assessed against the Property or any portion thereof. The obligations of Grantor under such agreement shall be secured hereby.

#### 1.06. Insurance.

Grantor will at all times provide, maintain and keep in force:

- (a) Policies of insurance insuring the Property against loss or damage by fire and all other causes of loss embraced by coverage of the type now known as special cause of loss form coverage, and against such other risks or hazards as Beneficiary from time to time reasonably may designate. Such policies shall be in an amount sufficient to prevent Beneficiary or Grantor from becoming a co-insurer under the terms of the applicable policies, but in any event in an amount

not less than 100% of the then full replacement cost of the Improvements (exclusive of the cost of excavations, foundations and footings below the lowest basement floor) without deduction for physical depreciation. Such policies shall contain agreed amount, replacement cost and inflation guard endorsements.

- (b) Flood insurance upon the Property in the event that the Property is located in a designated flood plain and such insurance is available pursuant to the provisions of the Flood Disaster Protection Act of 1973 or other applicable legislation (Beneficiary reserves the right to require that Grantor secure flood insurance in excess of the amount provided by the Flood Disaster Protection Act of 1973, if such insurance is commercially available, up to the amount of insurance required in subsection 1.06(a) hereof).
- (c) General liability insurance against claims for bodily injury or death or for damage or injury to property occurring upon, in, or about the Property, in the amount of \$2,000,000.
- (d) During the period of any construction of or on the Improvements, builder's risk insurance under special cause of loss form coverage in an amount satisfactory to Beneficiary.

Grantor shall furnish Beneficiary with certificates evidencing each policy required to be provided by Grantor hereunder and certified copies of each policy. All policies for such insurance shall be issued by companies approved by Beneficiary, shall be on the new simplified ISO forms or other forms approved by Beneficiary, shall be subject to the approval of Beneficiary as to amount, content, form, and expiration date, and shall provide that they may not be cancelled without thirty (30) days' prior written notice to Beneficiary. All policies except the general liability policy shall contain a Lender's Loss Payable Endorsement (Form 372), or its equivalent, in favor of Beneficiary insuring that the proceeds thereof shall be payable to Beneficiary (to the extent of its interest). The general liability and builder's risk policies shall name Beneficiary as an additional insured.

At least thirty (30) days before expiration of any policy required to be provided by Grantor hereunder, Grantor shall furnish Beneficiary proof of issuance of a policy continuing in force the insurance covered by the policy so expiring. Grantor shall furnish Beneficiary receipts for the payment of premiums on such insurance policies or other evidence of such payment reasonably satisfactory to Beneficiary. In the event that Grantor does not deposit with Beneficiary evidence of renewal of expiring insurance and evidence of payment of premium thereon at least thirty (30) days before expiration of any policy, then Beneficiary may, but shall not be obligated to, procure such insurance and pay the premiums therefor. In such event, Grantor agrees to repay to Beneficiary the premiums thereon promptly on demand, and until such repayment is received, interest thereon shall accrue at the default rate as described in the Note.

Grantor's obligations under this subsection 1.06 shall be deemed satisfied if Grantor has timely paid all insurance premiums for such policies to Beneficiary or its servicing agent pursuant to subsection 1.03 hereof.

1.07. Casualty.

Grantor hereby assigns to Beneficiary all insurance proceeds that Grantor may be entitled to receive under any insurance policies covering the Property or any interest therein or income therefrom, and such proceeds shall be delivered to and held by Beneficiary to be applied first, towards reimbursement of all reasonable costs and expenses of Beneficiary in connection with recovery of same, and then to the reduction of the indebtedness secured hereby, without the application of a prepayment fee, or Beneficiary may, at its option, require Grantor to immediately restore any portion or all of the Improvements to their original condition and, in that event, Beneficiary shall make the insurance proceeds available to Grantor as restoration progresses. The application of insurance proceeds to the reduction of the principal balance outstanding on the Note shall not serve to cure any existing default. If the proceeds are sufficient to pay in full the indebtedness and other sums secured hereby, then any excess proceeds shall be paid over to Grantor.

In the event of the foreclosure of this Deed of Trust or other transfer of the title to the Property in extinguishment, in whole or in part, of the indebtedness secured hereby, all right, title and interest of Grantor in and to any insurance policy, or premiums or payments in satisfaction of claims or any other rights thereunder then in force shall pass to the purchaser or grantee notwithstanding the amount of any bid at such foreclosure sale.

Nothing contained herein shall prevent accrual of interest as provided in the Note until such proceeds are actually received and applied to the outstanding principal balance of the Note.

After the happening of any casualty, whether or not required to be insured against under the policies to be provided by Grantor hereunder, Grantor shall give prompt written notice thereof to Beneficiary.

1.08. Condemnation.

If the Property or any part thereof is taken or damaged by reason of any public improvement, regulation, condemnation proceeding, or conveyance in lieu thereof, or in any other manner, Beneficiary shall be entitled to all compensation, awards and other payments or relief therefor, and shall be entitled, at its option, to commence, appear in and prosecute in its own name any action or proceeding, or to make any compromise or settlement in connection with such taking or damage. All such compensation, awards, damages, rights of action and proceeds (the "**Proceeds**") are hereby assigned to Beneficiary, who shall, after deducting therefrom all its reasonable expenses, including attorney fees, apply the Proceeds to the reduction of the indebtedness secured hereby, without the application of any prepayment fee. The application of a condemnation award to the reduction of the outstanding principal balance of the Note shall not serve to cure any existing default.

Nothing contained herein shall prevent the accrual of interest as provided in the Note until such Proceeds are actually received and applied to the outstanding principal balance of the Note.

1.09. Care of the Property.

Grantor will:

- (a) Keep the Property in at least the same condition and state of repair as exists as of the date Beneficiary transfers possession of the Property to Grantor under the Seller Lease (as hereinafter defined) and not commit or permit any waste or deterioration of the Property or suffer any act or occurrence that would impair the security for the debt secured hereby;
- (b) Not remove, demolish or substantially alter any portion of the Property or permit or suffer such to be done, without Beneficiary's prior written consent (except such alterations as may be required by laws, ordinances or regulations of governmental authorities);
- (c) Replace any work or materials that are not in accordance with the plans and specifications previously approved by Beneficiary and unsatisfactory to Beneficiary within fifteen (15) days after written notice from Beneficiary or, if such replacement requires more than fifteen (15) days to commence replacement, within fifteen (15) days and diligently proceed thereafter;
- (d) Comply with all laws, ordinances, rules, regulations and orders of governmental authorities now or hereafter affecting the Property or requiring any alterations or improvements to be made thereon, and perform all of its obligations under any covenant, condition, restriction or agreement of record affecting the Property;
- (e) Not commit, suffer or permit any act to be done in, upon or to the Property in violation of any law or ordinance or any covenant, condition or restriction affecting the Property;
- (f) Do any and all acts which, from the character or use of the Property, may be reasonably necessary to protect and preserve the security of Beneficiary, the specific enumerations herein not excluding the general;
- (g) Perform all of Grantor's obligations or covenants under any encumbrance affecting the Property, including without limitation, leases (other than Beneficiary's obligations as tenant under the Seller Lease), declarations, covenants, conditions, restrictions or other agreements relating to or affecting the Property;
- (h) Not create, suffer or permit any lien or encumbrance against or affecting the Property except the Permitted Encumbrances;

- (i) Not take or permit to be taken any actions that might invalidate any insurance carried on the Property;
- (j) Not permit any new building or additions to existing structures to be erected on the Property without the prior written consent of Beneficiary, and not construct any improvements on the Property or undertake any site development work unless approved by Beneficiary;
- (k) Not initiate or acquiesce in any change in the use or nature of the occupancy of the Property that is in violation of applicable zoning regulations or in any land use action that would cause the Property to be subject to a down-zoning of the existing land use classification affecting the Property, including without limitation the filing of any documentation to place the Property in a condominium or cooperative status or form of ownership without the prior written consent of Beneficiary; provided, however, Grantor shall have the right to apply to applicable governmental authorities in connection with land use entitlements for the redevelopment of the Property, including application for an up-zoning of the land use classification affecting the Property provided that Grantor shall not permit any land use decision to become effective until all obligations under the Loan Documents have been satisfied in full, unless the land use decision results in an up-zoning of the Property, as reasonably determined by Beneficiary, and Grantor posts with Beneficiary security in an amount reasonably acceptable to Beneficiary to cover any costs resulting from the land use decision (e.g., costs to fulfill any conditions of approval);
- (l) Insure that at all times the Property constitutes one or more tax parcels and one or more legal lots capable of being conveyed without violation of any subdivision or platting laws, ordinances, rules or regulations, or other laws regulating the dimension or separation of real property.
- (m) At all times operate the Property as an office building and for no other purposes without Beneficiary's prior written consent, which written consent shall not be unreasonably withheld, conditioned or delayed.

1.10. Further Assurances.

If required by Beneficiary at any time during the term of this Deed of Trust, Grantor will execute, acknowledge and deliver to Beneficiary, in form satisfactory to Beneficiary, such chattel mortgages, security agreements or other similar security instruments, in form and substance satisfactory to Beneficiary, covering all property of any kind whatsoever situated on the Property owned by Grantor or in which Grantor has any interest which, in the sole opinion of Beneficiary, is essential to the operation of the Real Property covered by this Deed of Trust. Grantor shall further, from time to time, within fifteen (15) days after request by Beneficiary, execute, acknowledge and deliver any financing statement, renewal, affidavit, certificate, continuation statement or other document as Beneficiary may request in order to perfect,

preserve, continue, extend or maintain the security interest under and the priority of this Deed of Trust and any such chattel mortgage or other security instrument. Grantor further agrees to pay to Beneficiary on demand all costs and expenses incurred by Beneficiary in connection with the preparation, execution, recording, filing and refiling of any such instrument or document including the charges for examining title and the attorney's fee for rendering an opinion as to the validity and priority of the lien of this Deed of Trust and of such chattel mortgage or other security instrument. However, neither a request so made by Beneficiary nor the failure of Beneficiary to make such request shall be construed as a release of such Property, or any part thereof, from the conveyance of title by this Deed of Trust, it being understood and agreed that this covenant and any such chattel mortgage, security agreement or other similar security instrument, delivered to Beneficiary, are cumulative and given as additional security. Any breach of such security agreement shall constitute an Event of Default under this Deed of Trust.

1.11. Leases and Other Agreements Affecting the Property; Assignment.

(a) From and after the Interest Commencement Date, Grantor will fully and promptly keep, observe, perform and satisfy each obligation, condition, covenant and restriction affecting the Property or imposed on it under any agreement between Grantor and a third party relating to the Property (including, without limitation, any leases or rental agreements for any portion of the Property [the "**Leases**"]) and any contracts relating to the construction, maintenance or management of the Property (the "**Contracts**") so that there will be no default thereunder and so that the persons obligated thereon shall be and remain at all times obligated to perform thereunder. Grantor will not permit to exist any condition, event or fact which could allow or serve as a basis or justification for any such person to avoid such performance. All right, title and interest of Grantor in the Leases and the Contracts, are hereby assigned to Beneficiary absolutely and irrevocably and not as additional security. Grantor expressly agrees that it is the intention of Grantor and Beneficiary that such assignment is absolute and shall entitle Beneficiary to collect, subject to the license granted in subsection 2.02 hereof, Rents (as defined in subsection 2.01) due under the Leases without the taking of any additional steps by Beneficiary (including but not limited to the taking of possession of the Property or the appointment of a receiver). Notice of such assignment shall be given to the tenant or tenants thereunder as may be required by Beneficiary.

Without the prior written consent of Beneficiary, Grantor shall not:

- (i) (i) make or permit any termination (other than expiration according to the terms of the agreement) or material amendment of any of the Leases or Contracts;
- (ii) accept prepayments of rent under the Leases exceeding one month in addition to a security deposit;
- (iii) modify or amend any such Leases or, except where the lessee is in default, cancel or terminate the same or accept a surrender of the leased premises, provided however, that Grantor may renew, modify or amend Leases or take other action in the ordinary course of business so long as such action does not decrease the monetary obligations of the lessee

thereunder, or otherwise materially decrease the obligations of the lessee or the rights or remedies of the lessor;

(iv) consent to the assignment or subletting of the whole or any portion of any lessee's interest under any of the Leases which has a term of more than one (1) year or grant any options to renew for a term greater than one (1) year;

(v) create or permit any lien or encumbrance which, upon foreclosure, would be superior to any such Leases; or

(vi) in any other manner impair Beneficiary's rights and interest with respect to the rents received from the Leases or the Contracts.

All security or other deposits received from tenants under the Leases shall be segregated and maintained in an account satisfactory with Beneficiary in compliance with applicable laws and with an institution satisfactory to Beneficiary.

(b) All Leases and Contracts shall be subject to the prior written approval of Beneficiary and at Beneficiary's option may be made superior or subordinate to this Deed of Trust. Notice of such assignment shall be given to the tenants or parties thereunder as may be required by Beneficiary.

(c) Grantor, or its designees approved in writing in advance by Beneficiary, shall be the exclusive manager of the Property. Beneficiary hereby gives its approval to Grantor's retention of Integrated Real Estate Services, LLC as the initial property manager for the Property. Any management agreement affecting the Property shall be subject to the prior written approval of Beneficiary, shall expressly subordinate to this Deed of Trust and the lien hereof, and shall be terminable by Beneficiary or the purchaser at any foreclosure sale upon such sale or transfer in lieu thereof without payment of any fee or other amounts to the manager.

(d) Beneficiary sold the Property to Grantor and retained possession under a lease-back arrangement pursuant to the Seller Lease. The Seller Lease does not obligate Beneficiary as tenant to pay rent but does place certain maintenance, insurance and tax obligations on Beneficiary. Upon termination of the Seller Lease, possession of the Property will transfer from Beneficiary to Grantor (i.e., the Interest Commencement Date).

#### 1.12. Expenses.

(a) Beneficiary or Trustee shall have the right to employ an attorney in connection with their rights under the Loan Documents and Grantor shall pay all attorney fees, costs and expenses, including expenses of retaking, holding, preparing for sale or selling (including cost of evidence or search of title, the costs of appraisals and the costs and expenses of an investigation of the Property for Hazardous Waste [as defined below] and other environmental characteristics) in connection with any action or actions that may be brought for the foreclosure of this Deed of Trust, possession of the Property, the protection of or the defense of the priority of the lien provided for hereby, the appointment of a receiver, or the enforcement of any and all covenants

or rights contained in or secured by this Deed of Trust, including any fees and costs incurred in any appeal or in any proceedings under any federal or state bankruptcy, forfeiture, receivership, insolvency or similar law.

(b) Grantor will pay immediately upon demand after expenditure all sums expended or expense incurred by Trustee or Beneficiary, including, without limitation, attorneys' fees, under any of the terms of this Deed of Trust, with interest from the date of expenditure at the default rate as described in the Note.

(c) Grantor will pay any reasonable amount required by Beneficiary for any statement requested by Grantor regarding the obligations secured hereby.

(d) Grantor will pay on demand all administrative fees and reimburse Beneficiary for all costs and expenses, including attorneys' fees, associated with reviewing and processing Grantor's post-closing requests.

#### 1.13. Books, Records and Accounts.

Grantor will keep and maintain, or cause to be kept and maintained, in the county where the Property is located, proper and accurate books, records and accounts reflecting all items of income and expense in connection with the operation of the Property or in connection with any services, equipment or furnishings provided in connection with the operation of the Property. Beneficiary or its designee shall have the right from time to time at all times during normal business hours to examine such books, records and accounts at the office of Grantor or other person or entity maintaining such books, records and accounts and to make copies or extracts thereof as Beneficiary or its designee shall desire.

Grantor, within ninety (90) days of Beneficiary's written request, shall provide to Beneficiary (a) a statement of income and expense for the Property for the preceding year and a rent roll showing all leases of and rental agreements covering space in the Improvements (including building designations, unit or suite number, type of unit, tenant names, lease commencement and expiration dates, monthly rent collected, asking market rent or scheduled rent, all fees paid by tenants, and all security deposits held) in reasonable detail, and (b) a balance sheet statement of assets and liabilities of Grantor for the preceding year. Such statements shall be certified as to completeness and accuracy by Grantor or one of its officers or general partners. The statements required by this paragraph may be prepared by Grantor, provided that, following the occurrence of an Event of Default, Beneficiary may require such statements to be audited and certified, at Grantor's expense, by an independent certified public accountant approved by Beneficiary.

#### 1.14. Subrogation.

Beneficiary will be subrogated for further security to the lien of and to all rights of any beneficiary, mortgagee or lienholder under any encumbrance, whether or not released of record, paid out of the proceeds of the loan secured by this Deed of Trust or advanced pursuant to the terms hereof and any of the other Loan Documents.

1.15. Inspection of Property.

Beneficiary is authorized, for itself, its agents or employees to enter at any reasonable time during normal business hours upon any part of the Property for the purpose of inspecting the same, determining Grantor's compliance with the provisions of this Deed of Trust and for the purpose of performing any of the acts it is authorized to perform under the terms of this Deed of Trust. Such inspections may include soil and water sampling and monitoring and inspections for Hazardous Materials (as defined in subsection 1.20 below). Grantor agrees to cooperate with Beneficiary to facilitate such inspections. Except in the case of an emergency, Beneficiary shall provide reasonable advance written notice to Grantor before entering the Property for inspection and shall minimize interference with Property tenants.

Beneficiary shall also be entitled to examine all records and documents relating to the Property, or the operations or conduct of any activities thereon, whether such records are in the possession of or under the control of Grantor, the Property manager, governmental agencies or entities having jurisdiction over the Property or otherwise. To the extent that such records and documents are not under the control of Grantor, Grantor shall cooperate with Beneficiary to facilitate such examination.

1.16. Property Compliance.

Beneficiary hereby acknowledges that Grantor, as buyer, received title to the Property from Beneficiary, as seller, and that this Deed of Trust is granted and conveyed as security for seller financing of such conveyance. Beneficiary further acknowledges that it shall retain possession of the Property after the effective date of this Deed of Trust pursuant to the terms and conditions of the Seller Lease. Accordingly, as of the date of this Deed of Trust, and notwithstanding anything to the contrary contained herein, Beneficiary is not relying upon any Grantor covenant concerning the condition of the Property, and the following Grantor covenants shall only apply from and after the Interest Commencement Date:

(a) The use of the Improvements shall comply fully with environmental, air quality, zoning, flood plain, planning, subdivision, building, health, labor, discrimination, fire, traffic, safety, wetlands, shoreline and other governmental or regulatory rules, laws, ordinances, statutes, codes and requirements applicable to the Property, including, without limitation, the Fair Housing Act of 1968 (as amended) and the Americans with Disabilities Act of 1990 (collectively, the "**Building Laws**"). Grantor shall maintain such final certificates as may be required or customary and evidencing compliance with all building codes and permits, and approval of full occupancy of the Improvements and of all installations therein. Grantor shall cause the Property to be continuously in compliance with all Building Laws (as the same may be amended from time-to-time).

(b) Grantor agrees to protect, defend, indemnify and hold Beneficiary harmless from and against all liability threatened against or suffered by Beneficiary by reason of a breach by Grantor of the foregoing representations and warranties contained in the subsection 1.16(a). The foregoing indemnity shall include the cost of all alterations to the Property (including

architectural, engineering, legal and accounting costs), all fines, fees and penalties, and all legal and other expenses (including attorney fees), incurred in connection with the Property being in violation of any Building Law and for the cost of collection of the sums due under the indemnity. In the event that Beneficiary shall become the owner of the Property by foreclosure or deed in lieu of foreclosure of the Deed of Trust, the foregoing indemnification obligation shall survive such foreclosure or deed in lieu of foreclosure.

1.17. Collateral Security Instruments.

Grantor covenants and agrees that if Beneficiary at any time holds additional security for any obligations secured hereby, it shall have the right to enforce the terms thereof or otherwise realize upon the same, at its option, either before or concurrently herewith or after a sale is made hereunder, and may apply the proceeds upon the indebtedness secured hereby without affecting the status of or waiving any right to exhaust all or any other security, including the security hereunder, and without waiving any breach or default or any right of power whether exercised hereunder or contained herein or in any such other security.

1.18. Suits Affecting Property.

Grantor agrees to appear in and defend any action or proceeding purporting to affect the Property or security of this Deed of Trust or any other security for the obligations secured hereby, *the interest of Beneficiary or the rights, powers or duties of Trustee hereunder*. Grantor agrees to notify Beneficiary before it commences any action or proceeding relating to any part of the Property or the security of this Deed of Trust (except actions to terminate month-to-month tenancies or evict tenants thereunder to the extent permitted by subsection 1.11 hereof). Grantor agrees to pay all costs and expenses, including cost of evidence of title and reasonable attorney fees in any action or proceeding in which Beneficiary or Trustee may appear or be made a party, including, but not limited to, foreclosure or other proceeding commenced by those claiming a right to any part of the Property under any prior or subordinate liens, any forfeiture proceeding, in any action to partition or condemn all or part of the Property, and in any action concerning the disposition or availability of insurance proceeds relating to the Property, whether or not such proceedings are pursued to final judgment. Grantor hereby assigns to Beneficiary all proceeds payable by third parties arising from claims or events of impairment or loss to the Property, and agrees that Beneficiary may require that such amount be paid directly to Beneficiary. In any claim, action or proceeding affecting the Property or Beneficiary's security in which Beneficiary appears (including any claim on the title insurance policy insuring the lien of this Deed of Trust), Grantor fully waives any rights to privacy or nondisclosure it may have with regard to information provided to Beneficiary in connection with the loan secured hereby.

1.19. Beneficiary's Right to Defend Action and Cure Certain Defaults.

Beneficiary shall have the right to appear in and defend any action or proceeding at law or in equity or in bankruptcy purporting to affect the Property or any security for the obligations secured hereby. Beneficiary shall be allowed and paid all Beneficiary costs, charges and expenses, including cost of evidence of title and reasonable attorney fees incurred in such action or proceeding in which Beneficiary may appear.

If Grantor fails to make any payment or to do any act as herein provided, then Beneficiary or Trustee, but without obligation so to do and without notice to or demand upon Grantor and without releasing Grantor from any obligation hereof, shall have the right to: make or do the same 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 that in the judgment of either appears to be prior or superior hereto; and, in exercising any such power, incur any liability, expend whatever amounts in Beneficiary's or Trustee's absolute discretion it may deem necessary therefor, including cost of evidence of title and attorneys' fees.

Grantor hereby agrees to pay on demand, with interest at the default rate described in the Note from the date of expenditure, all of Beneficiary's costs, charges, expenses and amounts referred to above in this subsection 1.19, including cost of evidence of title and reasonable attorney fees incurred in such action or proceeding in which Beneficiary may appear. All costs, charges and expenses so incurred, together with interest thereon as aforesaid, shall be secured by the lien of this Deed of Trust.

1.20. Hazardous Materials.

(a) The term "**Environmental Liability**" shall mean any claim, demand, obligation, cause of action, accusation, allegation, order, violation, damage (including foreseeable consequential damage), injury, judgment, penalty or fine, cost of Enforcement or cost of Remedial Action, or any other cost or expense whatsoever, including reasonable attorney fees and disbursements, resulting from the violation or alleged violation of any Environmental Law or from any Enforcement or Remedial Action. The term "**Environmental Law**" shall mean any federal, state or local laws, ordinances, codes, regulations, rules, orders, or decrees regulating, relating to, or imposing liability or standards of conduct concerning, any environmental matters, including, but not limited to, matters related to air pollution, water pollution, noise control, Hazardous Material, soil condition or industrial hygiene. The term "**Enforcement or Remedial Action**" shall mean any step taken by any person, agency or entity to enforce compliance with or to collect or impose penalties, fines, or other sanctions provided by any Environmental Law. The term "**Hazardous Material**" shall mean any hazardous, toxic or dangerous waste, substance, material, pollutant or contaminant, as defined in or regulated now or in the future by the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. Sections 9601 *et seq.*, the Resource Conservation and Recovery Act of 1976 ("RCRA"), 42 U.S.C. Sections 6901 *et seq.*, the Clean Air Act, as amended, 42 U.S.C., Section 7401, the Clean Water Act, 33 U.S.C. Sections 1251 *et seq.*, the Safe Drinking Water Act, 42 U.S.C. Sections 300(f) *et seq.*, the Toxic Substances Control Act, 15 U.S.C. Sections 2601 *et seq.*, the Washington State Model Toxics Control Act, RCW Ch. 70.105D, the Washington State Hazardous Waste Management Act, RCW Ch. 70.105, the Washington Water Pollution Control Act, RCW Ch. 90.48, The Washington Clean Air Act, RCW Ch. 70.94, The Washington Industrial Safety and Health Act, RCW Ch. 49.17, The Washington State Environmental Policy Act, RCW Ch. 43.21C, or rules and regulations of the EPA and the Washington Department of

Ecology, any so-called "superfund" or "superlien" law, and any other federal, state or local law, regulation, ordinance or order or common law decision, including, without limitation, petroleum products or by-products, radon gas, polychlorinated biphenyls (PCBs), asbestos, asbestos-containing materials, and urea formaldehyde.

(b) Other than matters disclosed by Beneficiary to Grantor, Grantor hereby represents and warrants that (i) neither Grantor nor, to the best knowledge of Grantor after due inquiry, any other person has ever caused or permitted any Hazardous Material to be released, placed, held, located or disposed of, on, under or at the Property, or any other real property legally or beneficially owned (or in which any interest or estate is owned) by Grantor in any state now or hereafter having in effect a so-called "superlien" law or ordinance (the effect of which would be to create a lien on the Property to secure any obligation in connection with such real property in such other state); (ii) to the best of Grantor's knowledge after due inquiry no past or continuing migration of Hazardous Materials from neighboring property to the Property has occurred, (iii) neither the Property, nor any part thereof, nor any other real property legally or beneficially owned (or in which any interest or estate is owned) by Grantor in any state now or hereafter having in effect a so-called "superlien" law or ordinance, has ever been used (whether by the Grantor or, to the best knowledge of Grantor, by any other person) to generate, manufacture, store, treat or dispose of any Hazardous Material; (iv) Grantor has never caused or permitted any asbestos, asbestos-containing materials, underground storage tanks, PCBs, radon gas, or urea formaldehyde to be located on or removed from in the Property; (v) to the best knowledge of Grantor after due inquiry, Grantor has no knowledge of any proceeding or inquiry by any governmental authority (including, without limitation, the United States Environmental Protection Agency and Washington State Department of Ecology) with respect to the presence of any Hazardous Material on the Property or the migration thereof from or to neighboring property; and (vi) to the best of Grantor's knowledge after due inquiry, there has been no investigation nor does Grantor have any knowledge of any contemplated investigation, by any local, state or federal governmental agency with authority to regulate, promulgate, administer or enforce any Environmental Laws with respect to the Property or any property immediately adjacent to the Property.

(c) Grantor shall keep and maintain the Property in compliance with and shall not cause or permit the Property to be in violation of any Environmental Law. Grantor shall not use, generate, manufacture, treat, store, allow to remain or dispose of on, under, or about the Property or transport to or from the Property any Hazardous Materials. Grantor shall not engage and has not engaged, in operations or activities that could lead to liability under any Environmental Law.

Grantor shall immediately advise Beneficiary in writing of (i) any and all enforcement, cleanup, remedial, removal, or other governmental or regulatory actions instituted, completed, or threatened pursuant to any Environmental Law affecting the Property; (ii) all claims made or threatened by any third party against Grantor or the Property relating to damage, contribution, cost recovery compensation, loss, or injury resulting from any Environmental Liability; (iii) any release or threatened release of any Hazardous Material onto the Property; (iv) Grantor's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Property that could cause the Property or any part thereof to be subject to any restrictions on the ownership, occupancy, transferability, or use of the Property under any Environmental Laws;

and (v) Grantor shall promptly provide Beneficiary with copies of all test results of underground storage tanks at the Property.

Beneficiary shall have the right to join and participate in, as a party if it so elects, any legal proceedings or actions initiated in connection with any Environmental Liability and to have its reasonable attorney fees in connection therewith paid by Grantor. Except in the case of emergencies (which shall be deemed to exist for a maximum of 24 hours), without Beneficiary's prior written consent, which shall not be unreasonably withheld, Grantor shall not take any Remedial Action in response to the presence of any Hazardous Material on, under or about the Property.

#### 1.21. Conveyance of Property; Change of Ownership.

In the event that, without Beneficiary's prior written consent, (a) all or any part of or any interest in the Property is sold, transferred, conveyed, leased (other than the Seller Lease and other than a lease of any portion of the space in the Improvements for a term of five years or less without an option to purchase made in accordance with subsection 1.11 of this Deed of Trust), further encumbered, or a contract of sale or other conveyance entered into with respect thereto (other than a contract of sale that is expressly subject to the payment in full of the Note upon the closing of such sale), or (b) there is a transfer of any beneficial interest in Grantor or in the holder of any beneficial interest in Grantor (including without limitation, transfers of partnership, stock or membership interests in Grantor or in any partner, shareholder or member of Grantor), then, upon the occurrence of any one or more of the foregoing events, Beneficiary shall have the right, at its option, to declare all amounts secured hereby immediately due and payable.

Upon written consent by Beneficiary to the transfer or conveyance of the Property or interest in Grantor, Beneficiary reserves the right to charge an assumption or transfer fee and to increase the interest rate of the loan secured hereby to interest rate charged by Beneficiary on comparable loans to similar borrowers if higher than that provided for in the Note and to otherwise condition its consent.

The execution and delivery by the Grantor of any joint venture agreement, partnership agreement, limited liability company or partnership operating agreement, declaration of trust, option agreement or other instrument whereunder any other person or corporation may become entitled, directly or indirectly, to the possession or enjoyment of the Property, or the income or other benefits derived or to be derived therefrom (other than any such agreement that is expressly subject to the payment in full of the Note upon the closing of the transactions whereby such other person or entity becomes entitled to such possession or enjoyment of the Property or the income or other benefits derived or to be derived therefrom) shall in each case be deemed to be a conveyance or assignment of the Grantor's interest in the Property for the purposes of this section, and shall require the prior written consent of the Beneficiary.

#### 1.22. Anti-Forfeiture.

Grantor hereby further expressly represents and warrants to Beneficiary that neither Grantor nor any other person involved with the Property has committed or engaged in any act,

enterprise or omission affording the federal government or any state or local government the right of forfeiture as against the Property or any part thereof or any monies paid in performance of its obligations under the Note or under any of the other Loan Documents. Grantor hereby covenants and agrees not to commit, permit or suffer to exist any act or omission or engage in any enterprise affording such right of forfeiture. In furtherance thereof, Grantor hereby indemnifies Beneficiary and agrees to defend and hold Beneficiary harmless from and against any loss, damage or injury by reason of the breach of the covenants and agreements or the warranties and representations set forth in the preceding sentence. Without limiting the generality of the foregoing, the filing of formal charges or the commencement of proceedings against Grantor, Beneficiary or all or any part of the Property under any federal or state law for which forfeiture of the Property or any part thereof or of any monies paid in performance of Grantor's obligations under the Loan Documents shall, at the election of the Beneficiary, constitute an Event of Default hereunder without notice or opportunity to cure.

## ARTICLE II

### ASSIGNMENT OF RENTS

#### 2.01. Assignment of Rents.

Grantor hereby absolutely and unconditionally assigns and transfers to Beneficiary all the income, rents, royalties, revenue, issues, profits and proceeds (collectively, the "**Rents**") of the Property, whether now due, past due or to become due, and hereby gives to and confers upon Beneficiary the right, power and authority to collect the Rents. Grantor irrevocably appoints Beneficiary its true and lawful attorney at the option of Beneficiary at any time, either by itself, through an agent or a receiver, to demand, receive and enforce payment, to give receipts, releases and satisfactions, and to sue, either in the name of Grantor or in the name of Beneficiary, for all the Rents. It is agreed that neither the foregoing assignment of Rents to Beneficiary, nor the exercise by Beneficiary of any of its rights or remedies under this subsection 2.01 or under subsection 2.02, nor the appointment of a receiver or possession of the Property by a receiver shall make Beneficiary a "mortgagee-in-possession" or otherwise responsible or liable in any manner with respect to the Property or the use, occupancy or enjoyment or operation of all or any portion thereof, unless and until Beneficiary in person assumes actual possession thereof. Nothing herein shall require Beneficiary to have a receiver appointed to collect any Rents, but Beneficiary shall be entitled to such appointment at its option in accordance with this Deed of Trust. This assignment of Rents is intended to be perfected, absolute and choate upon recording as provided in RCW 7.28.230.

#### 2.02. License to Collect.

Notwithstanding anything to the contrary herein, so long as no Event of Default exists, Grantor shall have a license to collect all Rents and to retain, use and enjoy the same. Upon any occurrence of an Event of Default hereunder such license shall be automatically revoked and all rights shall revert to Beneficiary who then shall have the right to exercise all of its rights as absolute owner of the Leases and Rents. Grantor agrees that payments made by tenants or occupants to Beneficiary shall, as to such tenants, be considered as though made to Grantor and

in discharge of tenants' obligations to Grantor to the extent of such payments. Nothing herein contained shall be construed as obliging Beneficiary to perform any of Grantor's covenants under any lease or rental agreement. Grantor shall execute and deliver to Beneficiary, upon demand, any further or supplemental assignments deemed desirable by Beneficiary in order to further carry out and confirm the intentions of this subsection 2.02 and upon failure of the Grantor so to comply, Beneficiary shall have the right to, in addition to any other rights or remedies, at its option, declare all obligations secured by this Deed of Trust to be immediately due and payable.

### ARTICLE III

#### SECURITY AGREEMENT AND FIXTURE FILING

##### 3.01. Security Agreement.

This Deed of Trust creates a lien on the Property, and to the extent the Property is not real property under applicable law this Deed of Trust constitutes a security agreement under the Washington Uniform Commercial Code and any other applicable law. If required by Beneficiary, at any time during the term of this Deed of Trust, Grantor will execute and deliver to Beneficiary, in form satisfactory to Beneficiary, additional security agreements, financing statements or other instruments covering all Personal Property or fixtures of Grantor which may at any time be furnished, placed on, or annexed or made appurtenant to the Real Property or used, useful or held for use in the operation of the Improvements. Grantor further agrees that:

- (a) The obligations covered by this Security Agreement include future advances in all forms;
- (b) Beneficiary may: commingle any personal property that comes into its possession; repledge such personal property upon terms that impair Grantor's right to redeem such; and require Grantor to assemble the personal property and make it available to Beneficiary at a place to be designated by Beneficiary which is reasonably convenient to both parties. To the extent Beneficiary is required for any reason to provide commercially reasonable notice to Grantor, Grantor agrees that notice mailed by first class mail five (5) days before the event of which notice is given, is commercially reasonable notice;
- (c) The standard by which Beneficiary's rights and duties under Article 9 of RCW Ch. 62.A, including, but not limited to, Part 5 thereof, shall be measured is gross negligence or willful misconduct;
- (d) Grantor shall notify Beneficiary in writing within thirty (30) days of any change in name of Grantor or its structure. Nothing herein shall be construed as a consent by Beneficiary to a change in corporate structure otherwise prohibited hereby.

Grantor hereby irrevocably constitutes and appoints Beneficiary the attorney-in-fact of Grantor, to execute, deliver and file with the appropriate filing officer or office such security agreements, financing statements or other instruments as Beneficiary may request or require in

order to impose and perfect the lien and security interest hereof more specifically on the Personal Property or any fixture.

If Grantor enters into a separate security agreement with Beneficiary relating to any of the Personal Property or fixtures, the terms of such security agreement shall govern the rights and remedies of Beneficiary in the event of default thereunder. Any breach of or default under any such security agreement shall constitute an Event of Default under this Deed of Trust.

### 3.02. Fixtures.

It is understood and agreed that, in order to protect Beneficiary from the effect of RCW 62A.9-313, as amended from time to time, in the event that (a) Grantor intends to purchase any goods which may become fixtures attached to the Property, or any part thereof, and (b) such goods will be subject to a purchase money security interest held by a seller or any other party:

- (i) Grantor shall, before executing any security agreement or other document evidencing such security interest, obtain the prior written approval of Beneficiary, and all requests for such written approval shall be in writing and contain the following information:
  - (A) a description of the fixtures to be replaced, added to, installed or substituted,
  - (B) the address at which the fixtures will be replaced, added to, installed or substituted, and
  - (C) the name and address of the proposed holder and proposed amount of the security interest,

and any failure of Grantor to obtain such approval shall be a material breach of Grantor's covenant under this Deed of Trust, and shall, at the option of Beneficiary, entitle Beneficiary to all rights and remedies provided for herein upon default provided, that Beneficiary shall be deemed to have approved such agreement if it fails to object to such agreement within thirty (30) days of its actual receipt of Grantor's written request for such approval. No consent by Beneficiary pursuant to this subsection shall be deemed to constitute an agreement to subordinate the right of the Beneficiary in fixtures or other property covered by this Deed of Trust.

- (ii) If at any time Grantor fails to make any payment on an obligation secured by a purchase money security interest in the Personal Property or any fixtures, Beneficiary, at its option, may at any time pay the amount secured by such security interest and the amount so paid shall be (A) secured by this Deed of Trust and shall be a lien on the Property having the same priorities as the liens and security interests created by this Deed of Trust and (B) payable on demand with interest at the rate specified in the Note from the time of such payment. If

Grantor shall fail to make such payment to Beneficiary within ten (10) days after demand, the entire principal sum secured hereby with all unpaid interest accrued thereon shall, at the option of Beneficiary, become due and payable immediately.

- (iii) Beneficiary shall have the right to acquire by assignment from the holder of such security interest any and all contract rights, accounts receivable, negotiable or nonnegotiable instruments, or other evidence of Grantor's indebtedness for such Personal Property or fixtures, and, upon acquiring such interest by assignment, shall have the right to enforce the security interest as assignee thereof, in accordance with the terms and provisions of the *Washington Uniform Commercial Code then in effect, and in accordance with any other provisions of law.*
- (iv) Whether or not Beneficiary has paid the indebtedness secured by or taken an assignment of such security interest, Grantor covenants to pay all sums and perform all obligations secured thereby, and if Grantor at any time shall be in default for a period of ten (10) days under such security agreement, it shall be a material breach of Grantor's covenants under this Deed of Trust, and Beneficiary may, at its option, declare the principal sum secured hereby immediately due and payable, time being of the essence.

### 3.03. Fixture Filing.

To the extent that any of the Property constitutes a fixture, this Deed of Trust shall serve as a fixture filing pursuant to the Washington Uniform Commercial Code.

## ARTICLE IV

### DEFAULTS AND REMEDIES

#### 4.01. Events of Default.

If any of the following events shall occur ("**Events of Default**"):

- (a) Default in payment of any indebtedness evidenced by the Note or secured hereby within ten (10) days after such payment is due; or
- (b) Failure by Grantor to comply with any of the other covenants, terms, conditions, restrictions or agreements contained in this Deed of Trust or any of the other Loan Documents; or
- (c) Grantor applies for or consents to the appointment of a receiver or trustee for it or any portion of its property, or if such receiver or trustee is appointed for Grantor or its property, or Grantor makes an assignment for the benefit of creditors, or Grantor admits in writing its inability to pay its debts as they become due, or

Grantor becomes insolvent, or a petition is filed by Grantor pursuant to any of the provisions of the United States Bankruptcy Code, as amended; or

- (d) A petition is filed against Grantor pursuant to any of the provisions of the United States Bankruptcy Code, as amended, or there is an attachment or sequestration of any of the property of Grantor and the same is not discharged or bonded within sixty (60) days; or
- (e) Any representation or disclosure made to Beneficiary by Grantor proves to be materially false or misleading on the date when such representation or disclosure was made, whether or not that representation or disclosure appears in this Deed of Trust, or Grantor omits to provide any information that makes any such representation or disclosure materially false or misleading;
- (f) A transfer of the Property in violation of subsection 1.21 hereof occurs; or
- (g) A default by any guarantor under that certain Guaranty of even date herewith provided by Douglas O. Howe, James D. O'Hanlon and Shawn R. Parry to Beneficiary.

then and in any such event, the Beneficiary shall be entitled to exercise all rights, and shall have the benefit of all remedies provided by law or set forth in this Deed of Trust or in any other instrument given to secure the indebtedness evidenced by the Note, including the right to declare all sums secured hereby immediately due and payable. No waiver by Beneficiary of any default on the part of Grantor shall be construed as a waiver of any subsequent default hereunder.

*Notwithstanding the foregoing,*

- (1) in the case of an Event of Default specified in subsection 4.01(b), if such Event of Default is susceptible of cure by Grantor, Beneficiary shall not exercise any such remedies unless Grantor fails to cure such Event of Default within thirty (30) days after written notice thereof from Beneficiary; provided that if such Event of Default is of such a nature that it cannot reasonably be cured within such 30-day period, such 30-day period shall be extended (to a period not exceeding 90 days) if and so long as, in Beneficiary's sole judgment, Grantor is diligently prosecuting such cure;
- (2) if an Event of Default would not have occurred but for a default by Beneficiary under the Seller Lease, then Grantor shall have an additional ninety (90) days from the date of Beneficiary's cure of its default under the Seller Lease in which to cure Grantor's Event of Default, and
- (3) if Grantor obtains a final non-appealable money judgment against Beneficiary resulting from a default by Beneficiary under the Seller Lease, then Grantor shall be entitled to credit that judgment against the unpaid balance of the Note. If Grantor elects to take such credit, Grantor shall provide written notice thereof to

Beneficiary and shall simultaneously record or file a satisfaction of that judgment with the court in which the judgment was entered.

#### 4.02. Foreclosure Sale.

If an Event of Default occurs and Beneficiary so requests, Trustee shall sell the Property in accordance with the Deed of Trust Act of the State of Washington (RCW Chapter 61.24 as existing now or hereafter amended) at public auction to the highest bidder. Any person except Trustee may bid at the Trustee's sale. Trustee shall apply the proceeds of the sale as follows: (a) to the expenses of sale, including Trustee's fee and attorney fees; (b) to all the indebtedness evidenced by the Note and all other indebtedness secured by this Deed of Trust or any other Loan Document; (c) the surplus, if any, shall be distributed in accordance with the Deed of Trust Act. Trustee shall deliver to the purchaser at the sale its deed, without warranty, which shall convey to the purchaser the interest in the Property which Grantor had or had the power to convey at the time of its execution of this Deed of Trust and such as it may have acquired thereafter. Trustee's deed shall recite the facts showing that the sale was conducted in compliance with all the requirements of the law and of this Deed of Trust, which recital shall be *prima facie* evidence of such compliance and conclusive evidence thereof in favor of *bona fide* purchasers and encumbrancers for value. The power of sale conferred by this Deed of Trust and by the Deed of Trust Act of the State of Washington is not an exclusive remedy, and when not exercised Beneficiary may foreclose this Deed of Trust as a mortgage.

Beneficiary shall have the right to proceed as to the Personal Property in accordance with Beneficiary's rights and remedies in respect to real property or sell the Personal Property separately and without regard to the remainder of the Property in accordance with Beneficiary's rights and remedies provided by the Washington Uniform Commercial Code as well as other rights and remedies available at law or in equity.

#### 4.03. Other Remedies Upon Default.

Upon the occurrence of an Event of Default, Beneficiary is authorized, either by itself or by its agent to be appointed by it for that purpose or by a receiver appointed by a court of competent jurisdiction, to enter into and upon and take and hold possession of any portion or all of the Property, both real and personal, and exclude Grantor and all other persons therefrom; to operate and manage the Property and rent and lease the same; to perform such reasonable acts of repair or protection as may be reasonably necessary or proper to conserve the value thereof; and collect any Rents for the benefit and protection of Beneficiary, and from time-to-time apply or accumulate such Rents in such order and manner as Beneficiary or such receiver, in its sole discretion, shall consider advisable, to or upon the following: the expenses of receivership, if any; the proper costs of upkeep, maintenance, repair and/or operation of the Property; the repayment of any sums theretofore or thereafter advanced pursuant to the terms of this Deed of Trust, the interest then due or next to become due upon the indebtedness secured hereby, and the taxes and assessments upon the Property then due or next to become due, or upon the unpaid principal of such indebtedness. The collection or receipt of Rents by Beneficiary, its agent or receiver, after notice of default and notice of sale shall not affect or impair such default or notices or any sale proceedings predicated thereon. Any Rents in the possession of Beneficiary,

its agent or receiver, at the time of sale and not theretofore applied as herein provided, shall be applied in the same manner and for the same purposes as the proceeds of the sale.

Neither Trustee nor Beneficiary shall be under any obligation to make any of the payments or do any of the acts referred to in this subsection 4.03, and any of the actions referred to in this subsection 4.03 may be taken by Beneficiary regardless of whether any notice of default or notice of sale has been given hereunder and without regard to the adequacy of the security for the indebtedness evidenced by the Note.

#### 4.04. Effect of Foreclosure on Leases.

Beneficiary shall have the right, at its option, to foreclose this Deed of Trust subject to the rights of any tenants of the Property, and the failure to make any tenants a party defendant to any foreclosure proceeding will not be asserted by the Grantor as a defense in any action or suit instituted to collect the indebtedness secured hereby or any deficiency remaining after foreclosure. Any such tenant whom Beneficiary elects to not make a party or subject to any foreclosure action shall continue in possession of its leasehold for the unexpired term of its lease and shall attorn to Beneficiary or other purchaser at the sale.

#### 4.05. Sale in Parcels, Marshaling.

The Property, real, personal or mixed, may be sold as an entirety or in parcels, by one sale or by several sales held at one time or at different times, all as Trustee or Beneficiary, in its unrestricted discretion, may elect. Grantor, for and on behalf of itself and all persons claiming by, through or under Grantor, waives any and all right to have the Property marshaled upon any foreclosure sale and agrees that, upon foreclosure, the Property may be sold as an entirety and not in parcels.

#### 4.06. Appointment of Receiver.

Beneficiary, separately or in any action to foreclose this Deed of Trust, shall be entitled (without notice and without regard to the adequacy of any security for the Note, the absence of waste or deterioration of the Property or other arguments based on equity), to the appointment of a receiver of the Rents of the Property who shall have, in addition to all the rights and powers customarily given to and exercised by such receiver, all the rights and powers granted to Beneficiary by the covenants contained herein. Once appointed, at Beneficiary's option, such receiver may remain in place until all amounts secured hereby are paid in full.

#### 4.07. Payment of Proceeds.

Whenever this Deed of Trust requires that amounts payable by a third party be paid directly to Beneficiary (for example, insurance proceeds and proceeds of claims of loss or damage to the Property), Beneficiary may enforce such right with a preliminary injunction or temporary restraining order. Grantor agrees that irreparable harm may result if such payments are not made directly to Beneficiary. Grantor agrees not to oppose a motion for such injunction

or restraining order provided that arrangements are made to deposit such sums in a third party depository.

## ARTICLE V

### GENERAL COVENANTS

#### 5.01. No Waiver.

Grantor covenants and agrees that the acceptance by Beneficiary of any sum secured hereby after its due date, or in an amount less than the sum then due, shall not constitute a waiver by Beneficiary of its rights either to require prompt payment when due of all other sums so secured or to declare a default or exercise such other rights as herein provided for failure so to pay. No failure by Beneficiary to insist upon strict performance of any term, covenant or condition hereof, nor failure to exercise any right or remedy hereunder, shall constitute a waiver of any such breach of such term, covenant or condition or of the later exercise of such right or remedy. All waivers shall be in writing.

#### 5.02. Remedies Cumulative.

No remedy herein conferred upon or reserved to Trustee or Beneficiary is intended to be exclusive of any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

#### 5.03. Plats, Easements and Other Agreements.

At any time upon written request of Beneficiary, payment of its fees and presentation of this Deed of Trust and the Note for endorsement (in case of full reconveyance, for cancellation and retention), without affecting the liability of any person for the payment of the indebtedness or the effect of the Deed of Trust upon the remainder of the Property, Trustee may (a) consent to the making of any map or plat of said Real Property; (b) join in granting any easement or creating any restriction thereon; (c) join in any subordination or other agreement affecting this Deed of Trust or the lien or charge thereof; (d) reconvey, without warranty, all or any part of the Real Property. The grantee in any reconveyance may be described as the "person or persons legally entitled thereto," and the recitals therein of any matters or facts shall be conclusive proof of the truthfulness thereof. Grantor agrees to pay Trustee's fee for full or partial reconveyance, together with a recording fee, if Trustee, at its option, elects to record said reconveyance.

#### 5.04. Notices.

All notices hereunder shall be deemed to have been duly given if mailed by United States registered or certified mail (return receipt requested and postage prepaid), sent by a reputable overnight delivery service, or personally delivered to the parties at the addresses set forth on page one of this Deed of Trust (or at such other addresses as shall be given in writing by any party to the other), and shall be deemed complete upon any such mailing, sending or delivery.

5.05. Heirs and Assigns, Terminology.

This Deed of Trust applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term "**Grantor**" shall mean both the original Grantor and any subsequent owner or owners of any of the Property. The term "**Beneficiary**" shall mean the owner and holder, including pledgees, of the Note, whether or not named as Beneficiary herein. In this Deed of Trust, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural. The term "and/or" as used herein means one or the other or both, or any one or all, or any combination of the things or persons in connection with which the words are used. The obligations of Grantor hereunder shall be joint and several, binding on any community of which any Grantor is a part and on any separate, community or quasi-community property of any Grantor.

The captions or headings are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope or intent of this Deed of Trust nor in any way affect this Deed of Trust.

5.06. Severability.

If any provision hereof should be held unenforceable or void, then such provision shall be deemed separable from the remaining provisions and shall in no way affect the validity of this Deed of Trust, except that if such provision relates to the payment of any monetary sum then Beneficiary may, at its option, declare the indebtedness and all other sums secured hereby immediately due and payable, provided that no prepayment fee shall be payable in the event Beneficiary elects to exercise the option to accelerate contained in this subsection 5.06.

Grantor acknowledges and agrees that this document constitutes, among others, three separate agreements: a Deed of Trust, a Security Agreement and an Assignment of Leases and Rents, each of which may be construed and enforced independently of the others even though the provisions hereof are common to all.

5.07. Time Is of the Essence.

Time is of the essence hereof in connection with all obligations of Grantor herein or in the Note. 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 default for failure so to pay.

5.08. Jury Trials.

It is mutually agreed by Grantor and Beneficiary that they each waive trial by jury in any action, proceeding, or counterclaim brought by either of them against the other on any matter whatsoever arising out of or in any way connected with the Note, this Deed of Trust or the loan secured hereby.

5.09. Oral Agreements.

NOTICE IS HEREBY GIVEN THAT ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT, MODIFY LOAN TERMS, OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.

5.10. Non-Agricultural Use.

The Real Property which is the subject of this Deed of Trust is not used principally or primarily for agricultural or farming purposes.

5.11. Governing Law.

This Deed of Trust is to be governed by and construed in accordance with the laws of the state of Washington.

**[THE BALANCE OF THIS PAGE HAS INTENTIONALLY BEEN  
LEFT BLANK; SIGNATURE PAGE FOLLOWS]**



EXHIBIT A

Legal Description

LOTS 1 THROUGH 9 AND LOTS 11 AND 12, BLOCK 2, FAIRVIEW HOMESTEAD ASSOCIATION, FOR THE BENEFIT OF MECHANICS AND LABORERS, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 1 OF PLATS, PAGE 119, IN KING COUNTY, WASHINGTON; EXCEPT THE WEST 80 FEET OF THE NORTH 36 FEET OF SAID LOT 1.

After Recording mail to:

Bateman◇Seidel  
888 SW Fifth Avenue, Suite 1250  
Portland, OR 97204  
Attention: Randall B. Bateman Esq.

DEED OF TRUST  
SECURITY AGREEMENT  
ASSIGNMENT OF LEASES AND RENTS  
AND FIXTURE FILING

GRANTOR: [\_\_\_\_\_]

BENEFICIARY: CASCADE NATURAL GAS CORPORATION

TRUSTEE: FIRST AMERICAN TITLE INSURANCE COMPANY

Legal Description in Exhibit A to document

Assessor's Tax Parcel ID#(s): \_\_\_\_\_

**EXHIBIT D**

**(See the attached Guaranty)**

## GUARANTY

In consideration of CASCADE NATURAL GAS CORPORATION, a Washington corporation (“**Lender**”) lending Seven Million Four Hundred Thousand Dollars (\$7,400,000) (the “**Loan**”) to [ \_\_\_\_\_ ], a Washington limited liability company (“**Borrower**”), Douglas O. Howe, James D. O’Hanlon, and Shawn R. Parry (collectively, “**Guarantor**”), jointly and severally, hereby unconditionally and irrevocably guarantee to Lender payment and performance of the Guaranty Obligations (as hereinafter defined).

The Loan is evidenced by a promissory note in the amount of Seven Million Four Hundred Thousand Dollars (\$7,400,000) (the “**Note**”) bearing interest and payable as set forth therein, repayment of which is secured by a Deed of Trust, Security Agreement, Assignment of Leases and Rents and Fixture Filing (the “**Deed of Trust**”) on property located in King County, Washington, more particularly described therein. The Note and the Deed of Trust are sometimes hereinafter collectively referred to as the “**Loan Documents**.”

### GUARANTOR FURTHER AGREES THAT:

#### **ARTICLE I. As used herein, the term “Guaranty Obligations” means:**

(a) the obligations or liabilities of Borrower to Lender for and to the extent of any actual loss, damage, cost, expense, liability, claim, cause of action, suit, demand, judgment or other obligation incurred by or awarded against Lender (including reasonable attorney fees) arising out of or in connection with the following:

(i) fraud or intentional misrepresentation by Borrower or Guarantor in connection with the Loan;

(ii) the gross negligence or willful misconduct by Borrower in connection with the Loan;

(iii) material physical waste of the Property by Borrower, Guarantor, or any affiliate of Borrower or Guarantor (each, a “**Borrower Party**”) or an employee or agent of any Borrower Party;

(iv) the misapplication (*i.e.*, in a manner not permitted by the Deed of Trust) or conversion by Borrower of (A) any insurance proceeds paid by reason of any loss, damage or destruction to the Property, and (B) any awards or other amounts received in connection with the Condemnation of all or a portion of the Property or the failure to apply all such proceeds to repayment of the Note following an Event of Default, as defined in the Deed of Trust;

(v) except as permitted in the Deed of Trust, Borrower’s failure to pay charges for labor or materials or taxes, which charges or taxes create liens (other than

Permitted Encumbrances, as defined in the Deed of Trust) on any portion of the Property;  
and

(vi) failure to maintain insurance policies required to be maintained by Borrower under the Deed of Trust (excluding any insurance requirements imposed on Lender, as tenant, under the Lease Agreement [as defined in the Deed of Trust]).

(b) the obligation to pay the Note in full, including principal, accrued and unpaid interest, and any other costs, expenses or charges permitted or allowed under the Loan Documents; provided, however, that Lender may not collect from Guarantor more than the aggregate amount of \$1,000,000 under this subsection 1(b), plus Lender's attorney fees and costs incurred in connection with collecting said amount from Guarantor.

**ARTICLE II.** The obligations of Guarantor hereunder are primary, absolute and unconditional under any and all circumstances unless and until terminated as provided in Section 15 below. This Guaranty shall not be impaired, discharged, or in any manner affected as a result of: (a) any right of set-off, counterclaim, or defense of any Guarantor or Borrower other than payment in full of the Note; (b) the nonexistence of Borrower as a legal entity; or (c) any lack of authority of Borrower to execute the Note.

**ARTICLE III.** This Guaranty is an absolute Guaranty of payment and not collection. The failure of Lender to exercise any rights or remedies that it has or may have against Borrower shall in no way impair the obligations of Guarantor hereunder. The liability of Guarantor hereunder is and shall be direct and unconditional. Lender need not, as a condition precedent to enforcement of this Guaranty, exhaust the security for payment of the Note by sale proceedings or otherwise, or pursue any other rights or remedies which it has or hereafter may have against the maker or subsequent endorsers of the Note, whether or not such exhaustion of other remedies is required by statute or otherwise. Notwithstanding the foregoing, Lender may not pursue its rights under this Guaranty until after an Event of Default has occurred. The debt evidenced by the Loan Documents guaranteed hereunder includes all interest, fees and expenses (including default interest and late charges) accruing after the filing or commencement of a bankruptcy or other insolvency proceeding, whether or not such interest, fees or expenses are allowed in such proceeding.

**ARTICLE IV.** Guarantor hereby consents to the following, none of which shall affect, change, or discharge the obligations of Guarantor hereunder: (a) any renewal of, or extension of the time or times of payment of, the Note; (b) acceptance by any holder of the Note of any security of any kind; (c) surrender, release, reconveyance (partial or otherwise), exchange, impairment, or alteration of any security of any kind for the Note; (d) acceleration of the maturity of the Note, and hence of the obligations of Guarantor hereunder, for any of the causes set forth in the Loan Documents; (e) forbearance, indulgence, or waiver by Lender under the Loan Documents; (f) release (partial or otherwise), or alteration of the liability of, any maker, endorser, or guarantor of the Note; and (g) settlement or compromise of any claim of Lender against the Borrower or any person or entity whose obligation is held by Lender as security for any obligation of Borrower to Lender.

**ARTICLE V.** Guarantor hereby expressly waives the following: (a) notice of the acceptance of this Guaranty by any person; (b) notice of the amount of the indebtedness under the Note now existing or which may hereafter exist; (c) notice of demand for payment, notice of default or nonpayment, presentment, protest and notice of protest, as to the Note; (d) notice of assignment, transfer, or negotiation of the Note; and (e) all other notices to which Guarantor might otherwise be entitled, in connection with this Guaranty or the Loan Documents, other than those expressly provided for in the Loan Documents.

**ARTICLE VI.** Lender may amend or modify the Loan Documents, and otherwise may deal with the Borrower, without notice to or consent of Guarantor, and without affecting, diminishing, or otherwise impairing the liability of Guarantor hereunder.

**ARTICLE VII.** Guarantor shall not be subrogated to Lender in respect of any action taken or permitted by Lender against Borrower or any other guarantor, until Lender has received payment in full of the principal balance of the Note, together with interest thereon and together with all costs, attorneys' fees and other expenses incurred by Lender in enforcing the payment of the Note, or in enforcing performance and observation of any other obligation hereby guaranteed. Guarantor waives any defense to payment under this Guaranty based on an argument that realization on the collateral for the Loan by Lender through nonjudicial means has impaired Guarantor's subrogation rights. Guarantor acknowledges that it has the right at common law and under RCW 61.24.100 to obtain a separate reimbursement agreement from the Borrower covering amounts paid by Guarantor under this Guaranty, and it is Guarantor's sole responsibility to obtain such a reimbursement agreement from the Borrower if Guarantor so desires. The presence or absence of a reimbursement agreement with the Borrower shall have no effect on Guarantor's obligations under this Guaranty. In addition, for as long as any claim on the part of Lender against Borrower exists, Guarantor agrees not to sue upon, collect, or receive payment upon any claim or claims on its part against Borrower now or hereafter existing. Guarantor shall not sell, assign, transfer, pledge, hypothecate, or encumber any indebtedness of Borrower it holds without concurrently obtaining and delivering to Lender the written agreement of the transferee to be bound by this Guaranty.

**ARTICLE VIII.** This Guaranty shall continue to be effective, or be reinstated, as the case may be, if at any time payment by Borrower or any other guarantor of all or any part of any sum payable pursuant to the Note or any other guaranty, as the case may be, is rescinded or otherwise must be returned by Lender upon the insolvency, bankruptcy, or reorganization of the payor all as though such payment to Lender had not been made.

**ARTICLE IX.** No change in the name, purposes, capitalization, or organization of Borrower shall in any way affect, diminish, or otherwise impair the liability of Guarantor hereunder, and Lender shall not be obligated to inquire into the powers of the Borrower notwithstanding such borrowing, renewals, or credits shall be in excess of the powers of the Borrower.

**ARTICLE X.** No action or proceeding brought or instituted under this Guaranty and no recovery in pursuance thereof shall be a bar or defense to any further action or proceeding which may be brought under this Guaranty by reason of any further default or defaults hereunder or in

the performance and observance of the terms, covenants, conditions, and provisions in the Loan Documents.

**ARTICLE XI.** Lender shall be entitled to recover from Guarantor all attorney fees incurred by Lender in enforcing this Guaranty against Guarantor or interpreting its rights hereunder.

**ARTICLE XII.** No waiver, modification, extension, forbearance, or delay on the part of the Lender with respect to the Loan Documents, and no act or thing which might, but for this provision of this Guaranty, be deemed a legal or equitable discharge of a surety, shall operate to release the obligations of the Guarantor under this Guaranty, and no delay on the part of the Lender in exercising any of its options, powers, or rights hereunder, or a partial or single exercise thereof, shall constitute a waiver of any other rights hereunder.

**ARTICLE XIII.** Guarantor hereby waives presentment, protest, notice, demand, or action on delinquency in respect to the Loan or any obligation hereby guaranteed. Guarantor waives acceptance of this Guaranty.

**ARTICLE XIV.** This Guaranty shall survive the realization upon any collateral given as security for the Loan (including the realization on the real property collateral by nonjudicial proceedings) or the exercise of any other remedy contained in any document securing payment of the Note, it being agreed that this Guaranty shall terminate only as provided in Section 15 below.

**ARTICLE XV.** This Guaranty shall inure to the benefit of Lender, its successors and assigns (and as used herein, the term "Lender" shall be deemed to refer to the party identified as "Lender" in the first paragraph of this Guaranty or if different, the owner(s) or holder(s) from time to time of the Note), and shall be binding upon Guarantor and Guarantor's heirs, personal representatives, successors and assigns, as the case may be; provided, however, that this Guaranty shall terminate when the principal and interest of the Loan and all other obligations hereby guaranteed are paid in full and are not subject to recovery as provided in Section 8.

**ARTICLE XVI.** This Guaranty shall be governed by and construed in accordance with the laws of the state of Washington.

**ARTICLE XVII.** In the event of a conflict between the provisions of this Guaranty and the provisions of the Note, the provisions of this Guaranty shall control.

**ARTICLE XVIII.** Any notice or demand upon Guarantor shall be delivered personally or by reputable overnight courier service such as Federal Express c/o Touchstone Corporation at 2025 First Avenue, Suite 1212, Seattle, Washington 98121, or to such other address as Guarantor has furnished Lender in writing. Any change in Guarantor's address shall be sent to Cascade Natural Gas, Attention \_\_\_\_\_, at \_\_\_\_\_.

PLEASE BE ADVISED THAT ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT, OR FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
DOUGLAS O. HOWE, a married man

\_\_\_\_\_  
JAMES D. O'HANLON, a single man

\_\_\_\_\_  
SHAWN R. PARRY, a married man

Consent of Spouse

The undersigned spouse of Douglas O. Howe hereby consents to her spouse's guaranty of the Loan as set forth herein and agrees that such guaranty shall be a community obligation, binding on all of the community property of the undersigned and Douglas O. Howe. The undersigned authorizes Douglas O. Howe to bind the community property to this Guaranty by his signature set forth above.

\_\_\_\_\_

Consent of Spouse

The undersigned spouse of Shawn R. Parry hereby consents to her spouse's guaranty of the Loan as set forth herein and agrees that such guaranty shall be a community obligation, binding on all of the community property of the undersigned and Shawn R. Parry. The undersigned authorizes Shawn R. Parry to bind the community property to this Guaranty by his signature set forth above.

\_\_\_\_\_

**Schedule 8.1(k)**  
**Environmental Matters**

1. Improvements on the Land contains various building materials believed to contain asbestos (including but not limited to floor tiles, pipe insulation, and putty used as insulation around windows).
2. All environmental matters described in the Phase I Environmental Site Assessment report dated June 30, 2009 and prepared by Aspect Consulting, LLC.

Cascade Natural Gas Corporation  
Summary of Proposed Sale of Seattle Office & Property

	Description	Total Company	Allocation Factor	Washington	Oregon
	(a)	(b)	(c)	(c)	(d)
1	Original Cost	7,258,105	3 - Factor	5,490,998	1,767,107
2	Less Accumulated Depn	4,494,376	3 - Factor	3,400,145	1,094,231
3	Net Book Value	2,763,729	3 - Factor	2,090,853	672,876
4	Sale Price Seattle Property	9,200,000	3 - Factor	6,960,107	2,239,893
5	Less: Transaction Costs	552,000	3 - Factor	417,606	134,394
6	Federal Income Taxes	2,466,575	3 - Factor	1,866,046	600,529
7	State Income taxes	129,820	Direct Assign		129,820
8	Net Proceeds from Sale	6,051,605		4,676,454	1,375,151
9	Estimated Proceeds Less Costs (line 8 less line 3)	3,287,876		2,585,601	702,275
10	Est. Costs Kennewick Facility	5,635,806	3 - Factor	4,263,675	1,372,131
11	Gain (loss) on Property Transactions	(2,347,930)		(1,678,074)	(669,856)

1/ Recognize as gains and apply against Accumulated Depreciation Reserve, which is consistent with the treatment of gains authorized in UG-050544, Sale of Weantchee Business Office property

Cascade Natural Gas Corporation  
Sale of Seattle Office Building and Property

Ln	Description	1\Pre-Tax Proceeds from Sales Transaction	TAX BASIS Net Book Value	Taxable Income From Sale Of Property	2\Estimated Federal Income Tax	3\Estimated State Income Tax	Total Estimated Income Tax	Assigned To Washington 4\	Assigned to Oregon 4\
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)
1	222 Fairview/Parking Lot Land	1,387,139	443,377	943,762	349,664	18,403	368,067	264,532	103,535
2	222 Fairview Building	4,011,807	965,381	3,046,427	1,128,701	59,405	1,188,106	853,900	334,206
3	230 Fairview Land	793,022	253,400	539,622	199,930	10,523	210,452	151,254	59,199
4	230 Fairview Building	2,456,032	328,420	2,127,612	788,280	41,488	829,769	596,360	233,408
5	<b>TOTAL</b>	<b>8,648,000</b>	<b>1,990,578</b>	<b>6,657,422</b>	<b>2,466,575</b>	<b>129,820</b>	<b>2,596,395</b>	<b>1,866,046</b>	<b>730,349</b>
6	Land	2,180,161	696,777	1,483,384	549,594	28,926	578,520	415,786	162,734
7	Building	6,467,839	1,293,801	5,174,039	1,916,981	100,894	2,017,875	1,450,260	567,615

1\ Carried Forward from Exhibit 2, Page 3 of 5, Column (d)

2\ Estimated 2010 Effective Federal Income Tax Rate 37.05%

3\ Estimated 2010 Effective Oregon State Income Tax Rate 1.95%

4\ Federal Income Taxes Assigned Based on 3-Factor Formula and State Income Taxes Assigned Directly to Oregon

Washington 3-Factor 75.65%

Oregon 3-Factor 24.35%

Cascade Natural Gas Corporation  
Sale of Seattle Office Building and Property

		Allocation of Pre-Tax Proceeds					
Description	Sale Price Seattle Property	1\Estimated Transaction Costs	Est. Proceeds Before Income Taxes	Assigned to Washington	Assigned to Oregon		
(a)	(b)	(c)	(d)	(e)	(f)		
1 222 Fairview/Parking Lot Land	1,475,680	88,541	1,387,139	1,049,417	337,722		
2 222 Fairview Building	4,267,880	256,073	4,011,807	3,035,066	976,741		
3 230 Fairview Land	843,640	50,618	793,022	599,947	193,074		
4 230 Fairview Building	2,612,800	156,768	2,456,032	1,858,070	597,962		
5 TOTAL	9,200,000	552,000	8,648,000	6,542,500	2,105,500		
6 Land	2,319,320	139,159	2,180,161	1,649,364	530,796		
7 Building	6,880,680	412,841	6,467,839	4,893,136	1,574,703		

1\ Sales costs assumed at 6% (4% Commission, 1.7% State Real Estate Excise Tax, .3% other transaction costs)

Cascade Natural Gas Corporation  
Sale of Seattle Office Building and Property

	Description	Original Cost	Accumulated Depreciation	Net Book Value	Allocated To Washington 75.65%	Allocated To Oregon 24.35%
	(a)	(b)	(c)	(d)	(e)	(f)
1	222 Fairview/Parking Lot Land	443,377	0	443,377	335,429	107,948
2	222 Fairview Building	3,715,035	2,432,903	1,282,131	969,975	312,156
3	230 Fairview Land	253,400	0	253,400	191,706	61,694
4	230 Fairview Building	2,846,293	2,061,472	784,820	593,743	191,078
5	<b>TOTAL</b>	<b>7,258,105</b>	<b>4,494,376</b>	<b>2,763,729</b>	<b>2,090,853</b>	<b>672,876</b>
6	<b>Land</b>	<b>696,777</b>	<b>0</b>	<b>696,777</b>	<b>527,135</b>	<b>169,642</b>
7	<b>Building</b>	<b>6,561,328</b>	<b>4,494,376</b>	<b>2,066,952</b>	<b>1,563,718</b>	<b>503,234</b>

Cascade Natural Gas Corporation  
Sale of Seattle Office Building and Property

Description (a)	Original Cost (b)	Accumulated Depreciation (c)	Net Book Value (d)	Percentage of Seattle Property (e)	Sale Price Seattle Property (f)
1 222 Fairview/Parking Lot Land	443,377	0	443,377	16.04%	1,475,680
2 222 Fairview Building	3,715,035	2,432,903	1,282,131	46.39%	4,267,880
3 230 Fairview Land	253,400	0	253,400	9.17%	843,640
4 230 Fairview Building	2,846,293	2,061,472	784,820	28.40%	2,612,800
5 <b>TOTAL</b>	<b>7,258,105</b>	<b>4,494,376</b>	<b>2,763,729</b>	<b>100.00%</b>	<b>9,200,000</b>
6 <b>Land</b>	<b>696,777</b>	<b>0</b>	<b>696,777</b>	<b>25.21%</b>	<b>2,319,320</b>
7 <b>Building</b>	<b>6,561,328</b>	<b>4,494,376</b>	<b>2,066,952</b>	<b>74.79%</b>	<b>6,880,680</b>

**Cascade Natural Gas Corporation  
CY 2010 Allocation Factors**

Cascade Natural Gas Corporation State Allocation Formulas 2009				
		Washington	Oregon	Total
1	Customers	75.21%	24.79%	100.00%
2	Employees	74.73%	25.27%	100.00%
3	Gross Plant	77.02%	22.98%	100.00%
4	3-Factor Formula	75.65%	24.35%	100.00%