

Until a change is requested,  
all tax statements shall be sent  
to the following address:

Shirley Hilyard  
6856 Hilyard Ave.  
Klamath Falls, OR 97601

After recording, return to:

James R. Uerlings  
Attorney at Law  
110 North Sixth Street  
Klamath Falls, OR 97601

NON-MERGER WARRANTY DEED IN LIEU OF FORECLOSURE

RECITALS:

A. This Non-Merger Warranty Deed in Lieu of Foreclosure is made, executed and entered into as of the 9th day of May, 1996, between Commonwealth Financial, Ltd., an Oregon corporation ("Grantor"), and Shirley F. Hilyard ("Grantee").

B. Grantor owns fee simple title to the real property legally described as Lot 6 in Block 10 of the First Addition to Klamath River Acres, according to the official plat thereof in the file of the office of the Klamath County Clerk, Klamath County, Oregon, and hereafter referred to as the "Real Property."

C. To evidence and secure the sale of the real property made by Grantee to Grantor, Grantor executed and delivered to Grantee a Trust Deed dated October 6, 1993, and recorded on October 8, 1993 at Volume M 93, page 26290 in the Klamath County Real Property Records ("Trust Deed"), which secures a Note signed by the Grantor dated October 4, 1993 in the principal amount of \$95,625.00 ("Note").

D. Grantor agrees that the Trust Deed and the other documents evidencing and securing the Note are in default and are immediately capable of being foreclosed. Grantor further agrees that all notice provisions have been complied with and all grace periods have either expired or have been waived by Grantor. Grantor acknowledges that Grantee has declared the Note and all indebtedness under and secured by the Trust Deed due and payable.

E. The parties desire to avoid Grantor's further involvement in foreclosure litigation and reduce the cost and expense of such litigation by providing for a conveyance of the Real Property to Grantee.

## AGREEMENT:

NOW THEREFORE, IN CONSIDERATION OF the foregoing Recitals and the recitals and the covenants described herein, the parties agree as follows:

1. Grantor hereby warrants and conveys to Grantee, its successors and assigns, the Real Property, together with all appurtenances thereunto belonging or in any way appertaining, whether now or hereafter acquired. TO HAVE AND TO HOLD, all and singular, the said real property, together with the appurtenances, unto the said Grantee, and to its successors and assigns forever. Grantor covenants with Grantee that the former is now seized in fee simple of the full interest in the property granted; that the latter shall enjoy the same without any lawful disturbance; that Grantor will, on demand, execute and deliver to Grantee, at the expense of the latter, any further assurance of the same that may be reasonably required.

2. Grantor acknowledges and agrees that the conveyance of the Real Property to Grantee according to the terms of this Deed is an absolute and unconditional conveyance of all of its right, title, and interest in and to the Real Property, in fact, as well as form, and was not and is not now intended as a mortgage, trust, conveyance, deed of trust, or other security instrument of any kind, the consideration for such conveyance being exactly as recited herein; that Grantor has no further interests (including rights of redemption, equitable or statutory) or claims in and to the Real Property or to the proceeds and profits that may be derived thereof of any kind whatsoever; that possession of the Real Property hereby is surrendered and delivered to Grantee; that in executing this deed, Grantor is acting with the advice of counsel, and is not acting under any misapprehension as to the effect thereof or any duress, undue influence, or misrepresentation by Grantee or its representatives, agents, or attorneys; that this deed is not given as a preference over other creditors of Grantor; and that there is no person, partnership, or corporation other than Grantee interested in the Real Property directly or indirectly in any manner whatsoever except as aforesaid.

3. By acceptance of this deed, Grantee covenants and agrees with Grantor that Grantee shall not enforce any judgment against Grantor on the indebtedness evidenced by the promissory note secured by that certain Trust Deed described above, except by proceedings to enforce the Trust Deed lien by foreclosure. This deed shall not operate to preclude Grantee from proceeding in any action to enforce the Trust Deed lien described in this deed, but shall be construed to preclude Grantee from obtaining any deficiency judgment against this Grantor.

4. It is the express intent of the Grantee and Grantor that the interests of the Grantor in and to the Real Property conveyed herein shall not merge with the security (Trust Deed) and other interests of Grantee so as to forfeit or in any way prejudice the rights of Grantee with respect to the Real Property, but shall be and remain at all times separate and distinct interests, notwithstanding any union of said interests in the Grantee at any time by operation of this Deed in Lieu of Foreclosure; and that the lien or liens of the Grantee in and to the Real Property conveyed hereby created by the Trust Deed shall be and remain at all times valid and continuous liens upon the Real Property.

5. Grantor does hereby waive, surrender, convey, and relinquish any equity of redemption and statutory rights of redemption concerning the property and mortgage described herein.

6. The true and actual consideration paid for this transfer is Grantee's covenant to forbear from obtaining any deficiency judgment against Grantor on the above referenced promissory note.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

GRANTOR

Commonwealth Financial, Ltd.

By 

Its: President

STATE OF OREGON           )  
  )ss.  
County of   Klamath       )

On this 19th day of May, 1996, personally appeared the above named Walter Giavia, who being first duly sworn, did say that he is the President of Commonwealth Financial, Ltd., an Oregon corporation, and that the foregoing instrument was signed in behalf of said corporation; and he knowledgeable said instrument to be its voluntary act and deed.  
Before me:



  
Notary Public for Oregon

My Commission Expires: 12-19-96

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of James R Uerlings the 21st day  
of May A.D., 19 96 at 11:00 o'clock AM., and duly recorded in Vol. M96  
of Deeds on Page 14667

FEE \$40.00

Bernetha G. Letsch, County Clerk  
By 