

AFTER RECORDING, RETURN TO:

Jeffery Ball  
City Manager  
City of Klamath Falls  
500 Klamath Avenue  
P.O. Box 237  
Klamath Falls, OR 97601

mtc 51399 -KR

TRUST DEED

THIS TRUST DEED (hereinafter referred to as this "Deed"), dated as of June 20<sup>th</sup>, 2000 is hereby given by ELECTRO SCIENTIFIC INDUSTRIES, INC., an Oregon corporation ("Grantor"), as grantor, to AmeriTitle ("Trustee") for the use and benefit of KLAMATH COUNTY DEVELOPMENT CORPORATION, an Oregon corporation ("Beneficiary"), as beneficiary. Capitalized terms not otherwise defined in this Deed shall have the meaning ascribed thereto in the Development Agreement, as defined below.

WITNESSETH:

WHEREAS, Grantor and Beneficiary, among others, have entered into that certain Development Agreement dated June 16, 2000 ("Development Agreement"), which Development Agreement is hereby incorporated by this reference into this Deed, pursuant to which Grantor has agreed to reimburse Beneficiary certain amounts up to \$513,782 ("Reimbursement Obligation") if Grantor does not reach the goal of 200 "FTE Jobs" on the Property in the City of Klamath Falls, County of Klamath, State of Oregon, more particularly described on attached Exhibit A (the "Property"), subject to the applicable terms and conditions of the Development Agreement; and

WHEREAS, to secure its potential obligation to reimburse Beneficiary such Reimbursement Obligation amounts under the Development Agreement, Grantor has agreed to make the conveyance and grant contained herein.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor hereby grants, bargains, sells and conveys to Trustee, in trust, with the power of sale, for the use and benefit of Beneficiary and subject to all the provisions hereof, all of its right, title and interest, whether now owned or hereafter acquired, in the Property, together with easements, right-of-ways, strips and gores of land, and all estates, rights, titles, interests, privileges, hereditaments and appurtenances, reversions and remainders, whatsoever, in any way belonging, relating or appertaining to the Property or any part thereof, or which hereafter shall in any way belong, relate, or be appurtenant thereto and all improvements now or hereafter located thereon and all of Grantor's right, title and interest in, under and to any lease or occupancy agreement and all rents of the Property and each portion thereof.

This Deed is given to secure payment of the Reimbursement Obligations of Grantor. The maturity date of the Reimbursement Obligation, if such occurs, will occur on or before January 16, 2006, subject to possible extension as provided in the Development Agreement.

#### ARTICLE I

Section 1.01. Payment and Performance of Obligations. Grantor shall pay the Reimbursement Obligation promptly as the same shall become due, if such occurs.

Section 1.02. Representations and Warranties of Grantor. Grantor hereby represents and warrants to Beneficiary that Grantor owns the Property to the extent of the title thereto received from Beneficiary free and clear of all liens and encumbrances created by Grantor prior to the lien of this Deed.

#### ARTICLE II

Section 2.01. Events of Default. The term "Event of Default," whenever used in this Deed, shall mean failure by Grantor to duly pay to Beneficiary any amount pursuant to the Reimbursement Obligations within 30 days after written notice from Beneficiary that any Reimbursement Obligation is past due under the Development Agreement.

Section 2.02. Time of Essence of This Deed. Time is of the essence of this Deed. No omission on the part of Beneficiary to exercise any option contained herein when entitled to do so shall be construed as a waiver of such right.

Section 2.03. Remedies. Upon the occurrence of any event of default and at any time thereafter, Trustee or Beneficiary may exercise any one or more of the following rights and remedies: (i) the Trustee shall have the right to foreclose by notice and sale, and Beneficiary shall have the right to foreclose by judicial foreclosure, in either case in accordance with applicable law; and (ii) Trustee and Beneficiary shall have any other right or remedy provided in this Deed or available at law, in equity or otherwise, for the repayment of the Reimbursement Obligations.

Section 2.04. Waiver. No delay or omission of Beneficiary to exercise any right, power or remedy accruing under this Deed upon any default shall exhaust or impair any such right, power or remedy or shall be construed to be a waiver of any such default, or acquiescence therein; and every right, power and remedy given by this Deed to Beneficiary may be exercised from time to time and as often as may be deemed expedient by Beneficiary.

#### ARTICLE III

Section 3.01 Notices, Demands and Requests. All notices, demands or requests provided for or permitted to be given pursuant to this Deed must be in writing and shall be deemed to have been properly given or served if given or served in the manner provided in the Development Agreement for the giving of notice.

Section 3.02 Relationship to Development Agreement. This Deed is supplementary to and does not limit, alter, amend, modify or waive the Development Agreement, or any provision, covenant, condition or term thereof.

Section 3.03 Subordination to Future Financing of Project. In the event Grantor hereafter obtains financing to be secured by its interest in the Property, Beneficiary agrees to execute and deliver such commercially reasonable subordination agreement as such lender(s) may require subordinating the lien of this Deed to the lien of such financing documents, provided nothing herein or in such subordination agreement shall limit Grantor's Reimbursement Obligations to Beneficiary.

IN WITNESS WHEREOF, Grantor, by its duly authorized corporate officer, has executed this Deed as of the day and year first above written.

GRANTOR:

ELECTRO SCIENTIFIC INDUSTRIES, INC.

By:

Larry T. Rapp  
Larry T. Rapp, Vice President

STATE OF OREGON

County of

Klamath

ss.

This instrument was acknowledged before me on this 20<sup>th</sup> day of June, 2000, by LARRY T. RAPP, as Vice President of ELECTRO SCIENTIFIC INDUSTRIES, INC., an Oregon corporation, on behalf of the corporation.



Kristil Redd  
Notary Public for Oregon

EXHIBIT A  
TO  
TRUST DEED

PROPERTY DESCRIPTION

A tract of land situated in the NE 1/4 of Section 18, T38S, R9E WM, Klamath County, Oregon more particularly described as follows:

~~BEGINNING at the center one-fourth corner of Section 18; thence N 01°32'23" E 1319.28 feet, to the CN 1/16 corner of Section 18; thence S 88°25'29" E 1322.27 feet to the NE 1/16 corner of Section 18; thence S 01°23'04" W along the North-South center line of said NE 1/4, 471.77 feet; thence N 88°25'29" W 515.90 feet; thence S 01°23'04" W 855.00 feet to a point on the South line of said NE 1/4; thence N 87°53'45" W 810.00 feet to the point of beginning, containing 30.13 acres more or less. Bearings based on record of Survey Number 5074.~~

Also described as Parcel 1, Land Partition 12-00 situate in Section 18, Township 38 South, Range 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon.

State of Oregon, County of Klamath  
Recorded 06/20/00, at 11:14 a. m.  
In Vol. M00 Page 22409  
**Linda Smith,**  
County Clerk Fee\$ 36<sup>00</sup>