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**THIS INSTRUMENT PREPARED BY AND  
 AFTER RECORDING RETURN TO:**

Ron Sandrock  
 U.S. Bank National Association,  
 as Custodian/Trustee  
 555 SW Oak, PL-2, Suite 200  
 Portland, OR 97204

Send Tax Statements to:  
 Eric L. and Barbara A. Mockridge  
 34106 McCartie Lane  
 Bonanza, OR 97623

**OREGON TRUST DEED, SECURITY AGREEMENT  
 AND ASSIGNMENT OF RENTS AND LEASES  
 (INCLUDING FIXTURE FILING UNDER UNIFORM COMMERCIAL CODE)**

This Oregon Trust Deed, Security Agreement and Assignment of Rents and Leases (Including Fixture Filing Under Uniform Commercial Code) ("Deed of Trust") is made and entered into as of November 10, 2003, by ERIC L. MOCKRIDGE and BARBARA A. MOCKRIDGE, whose address is 34106 McCartie Lane, Bonanza, OR 97623, (collectively the "Grantor") in favor of U.S. BANK TRUST COMPANY, N.A. (the "Trustee"), for the benefit of U.S. BANK N.A. (the "Beneficiary" or the "Bank"), as of the date set forth on the last page of this Deed of Trust.

The date on which the Note matures or the term of the Note expires, exclusive of any option to renew or extend such term of maturity, is January 1, 2019.

**ARTICLE I. CONVEYANCE/MORTGAGE PROPERTY**

**1.1 Grant of Deed of Trust/Security Interest.** IN CONSIDERATION OF FIVE DOLLARS (\$5.00) cash in hand paid by the Trustee to the Grantor, and the financial accommodations from the Beneficiary to the Grantor as described below, the Grantor does hereby GRANT, BARGAIN AND SELL, MORTGAGE, WARRANT, CONVEY AND CONFIRM, ASSIGN, TRANSFER AND SET OVER unto Trustee, its successors and assigns IN TRUST, forever, for the benefit of the Beneficiary, the Mortgaged Property (defined below) to secure all of the Grantor's Obligations (defined below) to the Beneficiary. The intent of the parties hereto is that the Mortgaged Property secures all Obligations of the Grantor to the Beneficiary, whether now or hereafter existing, between the Grantor and the Beneficiary or in favor of the Beneficiary, including, without limitation, any note, any loan or security agreement, any lease, any other mortgage, deed of trust or other pledge of an interest in real or personal property, any guaranty, any letter of credit or reimbursement agreement or banker's acceptance, or any other agreement, whether or not enumerated herein, which specifically evidences or secures the Obligations (together and individually, the "Loan Documents"). The parties further intend that this Deed of Trust shall operate as a security agreement with respect to those portions of the Mortgaged Property which are subject to Article 9 of the Uniform Commercial Code.

**1.2 "Mortgaged Property"** means all of the following, whether now owned or existing or hereafter acquired by the Grantor, wherever located: all the real estate described below or in **Exhibit L** attached hereto (the "Land"), together with all buildings, structures, fixtures, equipment, inventory and furnishings used in connection with the Land and improvements; all materials, contracts, drawings and personal property relating to any construction on the Land; and all other improvements now or hereafter constructed, affixed or located thereon (the "Improvements") (the Land and the Improvements collectively the "Premises"); TOGETHER with any and all easements, rights-of-way, licenses, privileges, appurtenances thereto, water rights and ditch rights (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters thereto, and any and all leases or other agreements for the use or occupancy of the Premises, all the rents, issues, profits or any proceeds therefrom and all security deposits and any guaranty of a tenant's obligations thereunder (collectively the "Rents"); all awards as a result of condemnation, eminent domain or other decrease in value of the Premises and all insurance and other proceeds of the Premises.

Grantors, and each of them, hereby represent and warrant that the water rights relating to and included in the Mortgaged Property include a minimum of 213.4 acres of irrigation water in the Horsefly Irrigation District and 225.0 acres of irrigation water right from a well in the Lost River Basin allocated under Certificate No. 80435 and perfected under Permit G-11431.

The Land is described on the attached **Exhibit L**.

Real Property Tax Identification Number: 3911-01100-00700; 3911-01100-00800; and 3911-01100-00900.

1.3 **"Obligations "**means all loans by the Beneficiary to ERIC L. MOCKRIDGE and BARBARA A. MOCKRIDGE evidenced by a note or notes dated November 10, 2003, in the initial principal amount(s) of \$ 270,000, and any extensions, renewals, restatements and modifications thereof and all principal, interest, fees and expenses relating thereto (the "Note"); and also means all other loans or advances to the Grantor from the Beneficiary and all other obligations of the Grantor to the Beneficiary, when the promissory note, guaranty or other document evidencing the loan, advance or obligation (as modified, amended, extended, renewed or replaced) specifically states that payment and performance thereof are secured by this Deed of Trust, whether such Obligations are now or hereafter existing or incurred, whether liquidated or unliquidated, and whether absolute or contingent; and principal, interest, fees, expenses and charges relating to any of the foregoing, including, without limitation, costs and expenses of collection and enforcement of this Deed of Trust, attorneys' fees of both inside and outside counsel and environmental assessment or remediation costs.

The rate of interest on the Note is subject to indexing, adjustment, renewal, or renegotiation, as set out in the Adjustable Rate Rider attached as Exhibit C.

The maturity date of the Obligations is January 1, 2019.

1.4 **Homestead.** The Premises are the home of the Grantor. The Grantor, and each of them, release and waive all rights under and by virtue of the homestead exemption laws of the state of Oregon.

## **ARTICLE II. WARRANTIES AND COVENANTS**

All warranties and covenants of the Grantor under the Loan Documents, including the covenants to pay and perform all Obligations, are expressly incorporated herein as part of this Deed of Trust. In addition to such warranties and covenants, and while any part of the credit granted the Grantor under the Loan Documents is available or any Obligations of the Grantor to the Beneficiary are unpaid or outstanding, the Grantor continuously warrants to the Beneficiary and the Trustee and agrees as follows:

2.1 **Warranty of Title/Possession.** The Grantor warrants that it has sole and exclusive title to and possession of the Premises, excepting only: (a) restrictions and easements of record and zoning ordinances (the terms of which are and will be complied with, and in the case of easements, are and will be kept free of encroachment); and (b) taxes and assessments not yet due and payable (collectively, the "Permitted Encumbrances"). The lien of this Deed of Trust, subject only to Permitted Encumbrances, is and will continue to be a valid first and only lien upon all of the Mortgage Property.

2.2 **Maintenance; Waste; Alteration.** The Grantor will maintain the Premises in good and tenantable condition and will restore or replace damaged or destroyed

improvements with items of at least equal utility and value. The Grantor will not commit or permit waste to be committed on the Premises. The Grantor will not remove, demolish or materially alter any part of the Premises without the Beneficiary's prior written consent, except the Grantor may remove a fixture, provided the fixture is promptly replaced with another fixture of at least equal utility. The replacement fixture will be subject to the priority lien and security of this Deed of Trust.

**2.3 Transfer and Liens.** The Grantor will not, without the prior written consent of the Beneficiary, which may be withheld in the Beneficiary's sole and absolute discretion, either voluntarily or involuntarily (a) sell, assign, lease or transfer, or permit to be sold assigned, leased or transferred, any part of the Premises, or any interest therein; or (b) pledge or otherwise encumber, create or permit to exist any mortgage, pledge, lien or claim for lien or encumbrance upon any part of the Premises or interest therein, except for the Permitted Encumbrances. Beneficiary has not consented and will not consent to any contract or to any work or to the furnishing of any materials that might be deemed to create a lien or liens superior to the lien of this Deed of Trust.

**2.4 Escrow.** After written request from the Beneficiary, the Grantor will pay to the Beneficiary sufficient funds at such time as the Beneficiary designates to pay (a) the estimated annual real estate taxes and assessments on the Premises; and (b) all property hazard insurance premiums when due. Interest will not be paid by the Beneficiary on any escrowed funds unless otherwise required by law. Escrowed funds may be commingled with other funds of the Beneficiary. All escrowed funds are hereby pledged as additional security for the Obligations.

**2.5 Taxes, Assessments and Charges.** To the extent not paid to the Beneficiary under 2.4 above, the Grantor will pay, before they become delinquent, all taxes, assessments and other charges now or hereafter levied or assessed against the Premises, against the Beneficiary based upon this Deed of Trust or the Obligations secured by this Deed of Trust, or upon the Beneficiary's interest in the Premises, and deliver to the Beneficiary receipts showing timely payment.

**2.6 Insurance.** The Grantor will continually insure the Premises against such perils or hazards as the Beneficiary may require, in amounts, with acceptable co-insurance provisions, not less than the unpaid balance of the Obligations or the full replacement value of the Improvements, whichever is less. The policies will contain an agreement by each insurer that the policy will not be terminated or modified without at least thirty (30) days' prior written notice to the Beneficiary and will contain a mortgage clause acceptable to the Beneficiary; and the Grantor will take such other action as the Beneficiary may reasonably request to ensure that the Beneficiary will receive (subject to no other interests) the insurance proceeds from the Improvements. The Grantor hereby assigns all insurance proceeds to and irrevocably directs, while any Obligations remain unpaid, any insurer to pay to the Beneficiary the proceeds of all such insurance and any premium refund; and authorizes the Beneficiary to endorse the Grantor's name to effect the same, to make, adjust or settle, in the



Grantor's name, any claim on any insurance policy relating to the Premises. The proceeds and refunds will be applied in such manner as the Beneficiary, in its sole and absolute discretion, determines to rebuilding of the Premises or to payment of the Obligations, whether or not then due and payable.

**2.7 Condemnation.** Any compensation received for the taking of the Premises, or any part thereof, by a condemnation proceeding (including payments in compromise of condemnation proceedings), and all compensation received as damages for injury to the Premises, or any part thereof, shall be applied in such manner as the Beneficiary, in its sole and absolute discretion, determines to rebuilding of the Premises or to payment of the Obligations, whether or not then due and payable.

**2.8 Environmental Matters.** Except as specifically disclosed by Grantor to Beneficiary in writing prior to the execution of this Deed of Trust, Grantor represents and warrants as follows: There exists no uncorrected violation by the Grantor of any federal, state or local laws (including statutes, regulations, ordinances or other governmental restrictions and requirements) relating to the discharge of air pollutants, water pollutants or process waste water or otherwise relating to the environment or Hazardous Substances as hereinafter defined, whether such laws currently exist or are enacted in the future (collectively "Environmental Laws"). The term "Hazardous Substances" will mean any hazardous or toxic wastes, chemicals or other substances, the generation, possession or existence of which is prohibited or governed by any Environmental Laws. The Grantor is not subject to any judgment, decree, order or citation, or a party to (or threatened with) any litigation or administrative proceeding, which asserts that the Grantor (a) has violated any Environmental Laws; (b) is required to clean up, remove or take remedial or other action with respect to any Hazardous Substances (collectively "Remedial Action"); or (c) is required to pay all or a portion of the cost of any Remedial Action, as a potentially responsible party. Except as disclosed on the Borrower's environmental questionnaire provided to the Beneficiary, there are not now, nor to the Grantor's knowledge after reasonable investigation have there ever been, any Hazardous Substances (or tanks or other facilities for the storage of Hazardous Substances) stored, deposited, recycled or disposed of on, under or at any real estate owned or occupied by the Grantor during the periods that the Grantor owned or occupied such real estate, which if present on the real estate or in soils or ground water, could require Remedial Action. To the Grantor's knowledge, there are no proposed or pending changes in Environmental Laws which would adversely affect the Grantor or its business, and there are no conditions existing currently or likely to exist while the Loan Documents are in effect which would subject the Grantor to Remedial Action or other liability. The Grantor currently complies with and will continue to timely comply with all applicable Environmental Laws; and will provide the Beneficiary, immediately upon receipt, copies of any correspondence, notice, complaint, order or other document from any source asserting or alleging any circumstance or condition which requires or may require a financial contribution by the Grantor or Remedial Action or other response by or on the part of the Grantor under Environmental Laws, or which seeks damages or civil, criminal or punitive penalties from the Grantor for an alleged violation of Environmental Laws. In the event of any such

circumstance or condition, the Grantor agrees, at its expense and at the request of the Beneficiary, to permit an environmental audit solely for the benefit of the Beneficiary, to be conducted by the Beneficiary or an independent agent selected by the Beneficiary and which may not be relied on by the Grantor for any purpose. This provision shall not relieve the Grantor from conducting its own environmental audits or taking any other steps necessary to comply with Environmental Laws.

**2.9 Assignments.** The Grantor will not assign, in whole or in part, without the Beneficiary's prior written consent, the rents, issues or profits arising from the Premises.

**2.10 Right of Inspection.** The Beneficiary may at all reasonable times enter and inspect the Premises.

**2.11 Waivers by Grantor.** To the greatest extent that such rights may then be lawfully waived, the Grantor hereby agrees for itself and any persons claiming under the Deed of Trust that it will waive and will not, at any time, insist upon or plead or in any manner whatsoever claim or take any benefit or advantage of (a) any exemption, stay, extension or moratorium law now or at any time hereafter in force; (b) any law now or hereafter in force providing for the valuation or appraisal of the Premises or any part thereof prior to any sale or sales thereof to be made pursuant to any provision herein contained or pursuant to the decree, judgment or order of any court of competent jurisdiction; (c) to the extent permitted by law, any law now or at any time hereafter made or enacted granting a right to redeem from foreclosure or any other rights of redemption in connection with foreclosure of, or exercise of any power of sale under, this Deed of Trust; (d) any statute of limitations now or at any time hereafter in force; or (e) any right to require marshalling of assets by the Beneficiary.

**2.12 Assignment of Rents and Leases.** The Grantor assigns and transfers to the Beneficiary, as additional security for the Obligations, all right, title and interest of the Grantor in and to all leases which now exist or hereafter may be executed by or on behalf of the Grantor covering the Premises and any extensions or renewals thereof, together with all Rents, it being intended that this is an absolute and present assignment of the Rents. Notwithstanding that this assignment constitutes a present assignment of leases and rents, the Grantor may collect the Rents and manage the Premises, but only if and so long as a default has not occurred. If a default occurs, the right of Grantor to collect the Rents and to manage the Premises shall thereupon automatically terminate and such right, together with other rights, powers and authorizations contained herein, shall belong exclusively to the Beneficiary. This assignment confers upon the Beneficiary a power coupled with an interest and cannot be revoked by the Grantor. Upon the occurrence of a default, the Beneficiary, at its option without notice and without seeking or obtaining the appointment of a receiver or taking actual possession of the Premises may (a) give notice to any tenant(s) that the tenant(s) should begin making payments under their lease agreement(s) directly to the Beneficiary or its designee; (b) commence a foreclosure action and file a motion for appointment of a receiver; or (c) give notice to the Grantor that the Grantor should collect all Rents arising from the Premises and remit them to the Beneficiary upon collection and that the Grantor should

enforce the terms of the lease(s) to ensure prompt payment by tenant(s) under the lease(s). All Rents received by the Grantor shall be held in trust by the Grantor for the Beneficiary. All such payments received by the Beneficiary may be applied in any manner as the Beneficiary determines to payments required under this Deed of Trust, the Loan Documents and the Obligations. The Grantor agrees to hold each tenant harmless from actions relating to tenant's payment of Rents to the Beneficiary.

**2.13 Fixture Filing.** From the date of its recording, this Deed of Trust shall be effective as a financing statement filed as a fixture filing under the Uniform Commercial Code with respect to the Improvements and for this purpose the name and address of the debtor is the name and address of the Grantor as set forth in this Deed of Trust and the name and address of the secured party is the name and address of the Beneficiary as set forth in this Deed of Trust. The Mortgaged Property includes goods which are or may become so affixed to real property as to become fixtures. Many of the Mortgaged Property is of a nature such that a security interest therein can be perfected under the Uniform Commercial Code, this Deed of Trust shall also constitute the grant of a security interest to the Beneficiary and serve as a Security Agreement, and Grantor authorizes the filing of any financing statements and agrees to execute other instruments that may be required for the timber specification, perfection or renewal of such security interest.

### **ARTICLE III. RIGHTS AND DUTIES OF THE BENEFICIARY**

In addition to all other rights (including setoff) and duties of the Beneficiary under the Loan Documents which are expressly incorporated herein as a part of this Deed of Trust, the following provisions will also apply:

**3.1 Beneficiary Authorized to Perform for Grantor.** If the Grantor fails to perform any of the Grantor's duties or covenants set forth in this Deed of Trust, the Beneficiary may perform the duties or cause them to be performed, including, without limitation, signing the Grantor's name or paying any amount so required, and the cost, with interest at the default rate set forth in the Loan Documents, will immediately be due from the Grantor to the Beneficiary from the date of expenditure by the Beneficiary to date of payment by the Grantor, and will be one of the Obligations secured by this Deed of Trust. All acts by the Beneficiary are hereby ratified and approved, and the Beneficiary will not be liable for any acts of commission or omission, nor for any errors of judgment or mistakes of fact or law.

### **ARTICLE IV. DEFAULTS AND REMEDIES**

The Beneficiary may enforce its rights and remedies under this Deed of Trust upon default. A default will occur if the Grantor fails to comply with the terms of any Loan Document (including this Deed of Trust or any guaranty by the Grantor) or a demand for payment is made under a demand loan, or the Grantor defaults on any other mortgage or encumbrance affecting the Premises, or if any other obligor fails to comply with the terms of any Loan Document for which the Grantor has given the Beneficiary a guaranty or pledge.

Upon the occurrence of a default, the Beneficiary may declare the Obligations to be immediately due and payable.

**4.1 Remedies.** In addition to the remedies for default set forth below and in the other Loan Documents, including acceleration, the Beneficiary upon default will have all other rights and remedies for default available by law or equity. Upon a default, Beneficiary may exercise the following remedies:

**(a) Enforcement of Assignment of Rents and Leases.** Beneficiary may:

- (i) terminate the license granted to Grantor to collect the Rents (regardless of whether Beneficiary or Trustee shall have entered into possession of the Mortgaged Property), collect and sue for the Rents in Beneficiary's own name, give receipts and releases therefor, and after deducting all expenses of collection, including reasonable attorneys' fees, apply the net proceeds thereof to any Obligations as Beneficiary may elect;
- (ii) make, modify, enforce, cancel or accept surrender of any leases, evict tenants, adjust Rents, maintain, decorate, refurbish, repair, clean, and make space ready for renting, and otherwise do anything Beneficiary reasonably deems advisable in connection with the Mortgaged Property;
- (iii) apply the Rents so collected to the operation and management of the Mortgaged Property, including the payment of reasonable management, brokerage and attorneys' fees, or to the Obligations; and
- (iv) require Grantor to transfer and deliver possession of all security deposits and records thereof to Beneficiary.

**(b) Nonjudicial Sale; Power of Sale.** If permitted by applicable law, Beneficiary may foreclose Grantor's interest in all or in any part of the personal property or the real property constituting the Mortgaged Property by nonjudicial sale. Beneficiary may require the Trustee, and the Trustee is hereby authorized and empowered, to enter and take possession of the Premises and/or to sell all or part of the Mortgaged Property, at public auction, to the highest bidder for cash, free from equity of redemption, and any statutory or common law right of redemption, homestead, dower, marital share, and all other exemptions, after giving notice of the time, place and terms of such sale and of the Mortgaged Property to be sold, by advertising the sale of the property as required by the statutes of Oregon. The Trustee may sell all or any portion of the Mortgaged Property together or in lots or parcels, and may execute and deliver to the purchaser or purchasers of such property a conveyance in fee simple. The Trustee shall receive the proceeds thereof and shall apply the same as follows: (a) first, the



payment of the expenses of making, maintaining and executing this trust, protection of the Mortgaged Property, including the expense of any litigation and reasonable attorneys' fees of Trustee and Beneficiary, other costs specified herein, and reasonable compensation to the Trustee; (b) second, to any advancements made by the Trustee or the Beneficiary pursuant hereto, with interest thereon; (c) third, to the payment of the Obligations herein secured or intended so to be, in such order as Beneficiary shall elect, and any balance of said Obligations may be the subject of immediate suit; (d) and, fourth, should there be any surplus, Trustee will pay it to the Grantor, or to such person as may be legally entitled thereto. The sale or sales by Trustee of less than the whole of the Mortgaged Property shall not exhaust the power of sale herein granted, and the Trustee is specifically empowered to make successive sale or sales under such power until the whole of the Mortgaged Property shall be sold; and if the proceeds of such sale or sales of less than the whole of the Premises shall be less than due aggregate of the Obligations and the expenses thereof, this Deed of Trust and the lien, security interest and assignment hereof shall remain in full force and effect as to the unsold portion of the Mortgaged Property; provided, however, that Grantor shall never have any right to require the sale or sales of less than the whole of the Mortgaged Property, but Beneficiary shall have the right at its sole election, to request the Trustee to sell less than the whole of the Mortgaged Property. Beneficiary may bid and become the purchaser of all or any part of the Mortgaged Property at any such sale, and the amount of Beneficiary's successful bid may be credited on the Obligations.

(c) **Judicial Foreclosure; Other Relief.** Beneficiary may obtain a judicial decree foreclosing Grantor's interest in all or part of the Mortgaged Property. Beneficiary or Trustee may proceed by a suit or suits in equity or at law, whether for the specific performance of any covenant or agreement herein contained or in aid of the execution of any power herein granted, or for any foreclosure hereunder or for the sale of the Mortgaged property under the judgment or decree of any court or courts of competent jurisdiction. In the event that this Deed of Trust shall be foreclosed by judicial process, then to the fullest extent permitted by law, the Beneficiary shall be entitled to a deficiency judgment if the proceeds of such foreclosure shall be insufficient to pay all of the Obligations and allowed costs and expenses.

(d) **Entry on Premises.**

- (i) Beneficiary may enter into and upon and take possession of all or any part of the Mortgaged Property, and may exclude Grantor, and all persons claiming under Grantor, and its agents or servants, wholly or partly therefrom; and, holding the same, Beneficiary may use, administer, manage, operate, and control the Mortgaged Property and may exercise all rights and powers of Grantor in the name, place and stead of Grantor, or otherwise, as the Beneficiary shall deem best; and in the exercise of any of the foregoing rights and powers Beneficiary shall not be liable to Grantor for any loss or damage thereby

sustained unless due solely to the willful misconduct or gross negligence of Beneficiary.

(e) **Receiver.** Beneficiary may make application to a court of competent jurisdiction, as a matter of strict right and without notice to Grantor or regard to the adequacy of the Mortgaged Property for the repayment of the Obligations, for appointment of a receiver of the Mortgaged Property, and Grantor -does hereby irrevocably consent to such appointment. Any such receiver shall have all necessary and proper powers and duties of receivers in similar cases, including the full power to rent, maintain and otherwise operate the Mortgaged Property upon such terms as may be approved by the court.

(f) **Remedies Cumulative, Concurrent and Nonexclusive.** If the obligations are now or hereafter further secured by chattel mortgages, other deeds of trust, security agreements, pledges, contracts of guaranty, assignments of leases, or other security, Beneficiary may, at its option, exhaust its remedies under any one or more of said instruments and this Deed of Trust, either concurrently or independently, and in such order as Beneficiary may determine. Beneficiary shall have all rights, remedies and recourses granted in the Loan Documents and available to it at law or equity (including, without limitation, those granted by the Uniform Commercial Code), and same (a) shall be cumulative, concurrent, and nonexclusive, (b) may be pursued separately, successively or concurrently against Grantor or others obligated for the Obligations, or any part thereof or against any one or more of them, or against the Mortgaged Property, at the sole discretion of Beneficiary, and (c) may be exercised as often as occasion therefor shall arise, it being agreed by Grantor that the exercise of or failure to exercise any of same shall in no event be construed as a waiver or release thereof or of any other right, remedy or recourse.

(g) **Waiver by the Beneficiary.** The Beneficiary may permit the Grantor to attempt to remedy any default without waiving its rights and remedies hereunder, and the Beneficiary may waive any default without waiving any other subsequent or prior default by the Grantor. Furthermore, delay on the part of the Beneficiary in exercising any right, power or privilege hereunder or at law will not operate as a waiver thereof, nor will any single or partial exercise of such right, power or privilege preclude other exercise thereof or the exercise of any other right, power or privilege. No waiver or suspension will be deemed to have occurred unless the Beneficiary has expressly agreed in writing specifying such waiver or suspension.

(h) **Attorneys' Fees and Other Costs.** Attorneys' fees, whether incurred before or after commencement of litigation or at trial, on appeal or in any other proceeding; costs of procuring title insurance commitments and title searches; appraisals; environmental testings; reports and audits; and other costs incurred in connection with this Deed of Trust may be recovered by the Beneficiary and included in any sale made hereunder or by judgment of foreclosure.

**ARTICLE V. TRUSTEE**

**5.1 Action by Trustee.** The Trustee named herein shall be clothed with full power to act when action hereunder shall be required, and to execute any conveyance of the Mortgaged Property. In the event that the substitution of the Trustee shall become necessary for any reason, the substitution of a trustee in the place of that named herein shall be sufficient. The term "Trustee" shall be construed to mean "Trustees" whenever the sense requires. The necessity of the Trustee herein named, or any successor in trust, making oath or giving bond, is expressly waived.

**5.2 Employment of Agents.** The Trustee, or any one acting in its stead, shall have, in its discretion, authority to employ all property agents and attorneys in the execution of this trust and/or in the conducting of any sale made pursuant to the terms hereof, and to pay for such services rendered out of the proceeds of the sale of the Mortgaged Property, should any be realized; and if no sale be made or if the proceeds of sale be insufficient to pay the same, then Grantor hereby undertakes and agrees to pay the cost of such services rendered to said Trustee. Trustee may rely on any document believed by it in good faith to be genuine. All money received by the Trustee shall, until used or applied as herein provided, be held in trust, but need not be segregated (except to the extent required by law), and the Trustee shall not be liable for interest thereon.

**5.3 Indemnification of Trustee.** If the Trustee shall be made a party to or shall intervene in any action or proceeding affecting the Mortgaged Property or the title thereto, or the interest of the Trustee or Beneficiary under this Deed of Trust, the Trustee and Beneficiary shall be reimbursed by Grantor, immediately and without demand, for all reasonable costs, charges and attorneys' fees incurred by them or either of them in any such case, and the same shall be secured hereby as a further charge and lien upon the Mortgaged Property.

**5.4 Trustee and Successor Trustee.** Beneficiary may at any time, including any time before, during or after the commencement or completion of any foreclosure proceeding, remove Trustee (with or without cause) and appoint a successor Trustee by an instrument executed, acknowledged and recorded in the real estate records, which recording may take place before, during or after the commencement or completion of any foreclosure proceeding, and any such successor Trustee shall thereupon succeed to Trustee as Trustee hereunder as if named herein. No defect in the removal of Trustee or in the appointment of a successor or in the execution and recording of such appointment shall affect the validity thereof. Additionally, whether the recording of the successor Trustee instrument takes place before, during or after the commencement or completion of any foreclosure proceeding shall have no effect upon the validity of said proceeding. Trustee shall not be disqualified by reason that Trustee is an officer, employee or stockholder of Beneficiary, or has an interest in the Obligations. All parties waive any objection to Trustee having any such interest. Trustee shall be liable only for gross negligence or willful misconduct. No indemnity or remedy herein conferred is exclusive of any other remedy or indemnity, but each shall be in addition to every

other hereunder and at law or in equity. No delay or omission by Trustee or Beneficiary to exercise any right or power shall impair such right or power or be construed as a waiver of any default or an acquiescence therein. If Trustee shall have proceeded to enforce any right by foreclosure, entry or otherwise, and such proceedings are discontinued for any reason, or shall have been determined adversely, then Grantor and Trustee shall severally and respectively be restored to their former positions and rights hereunder.

## **ARTICLE VI. MISCELLANEOUS**

In addition to all other miscellaneous provisions under the Loan Documents which are expressly incorporated as a part of the Deed of Trust, the following provisions will also apply:

**6.1 Term of Deed of Trust/Release.** This Deed of Trust shall continue in full force and effect until this Deed of Trust is released. If Grantor shall pay to Beneficiary the Obligations as and when the same shall become due and this Deed of Trust is no longer intended to secure future advances or future obligations, then the Mortgaged Property shall be released at the cost of Grantor.

**6.2 Time of the Essence.** Time is of the essence with respect to payment of the Obligations, the performance of all covenants of the Grantor and the payment of taxes, assessments, and similar charges and insurance premiums.

**6.3 Subrogation.** The Beneficiary will be subrogated to the lien of any deed of trust, mortgage or other lien discharged, in whole or in part, by the proceeds of the Note or other advances by the Beneficiary, in which event any sums otherwise advanced by the Beneficiary shall be immediately due and payable, with interest at the default rate set forth in the Loan Documents from the date of advance by the Beneficiary to the date of payment by the Grantor, and will be one of the Obligations secured by this Deed of Trust.

**6.4 Choice of Law.** This Deed of Trust will be governed by the laws of the state in which the Mortgaged Property is located. For all other purposes, the choice of law specified in the Loan Documents will govern.

**6.5 Severability.** Invalidity or unenforceability of any provision of this Deed of Trust shall not affect the validity or enforceability of any other provision.

**6.6 Entire Agreement/Demand Obligations.** This Deed of Trust is intended by the Grantor and the Beneficiary as a final expression of this Deed of Trust and as a complete and exclusive statement of its terms, there being no conditions to the full effectiveness of this Deed of Trust. No parol evidence of any nature shall be used to supplement or modify any terms. IN THE EVENT ANY OF THE OBLIGATIONS SECURED HEREBY IS PAYABLE UPON DEMAND, NEITHER THIS DEED OF TRUST NOR ANYTHING CONTAINED HEREIN SHALL BE DEEMED TO ALTER, LIMIT, OR OTHERWISE IMPINGE UPON THE DEMAND CHARACTER OF SUCH OBLIGATIONS.



**6.7 Joint Liability; Successors and Assigns.** If there is more than one Grantor, the liability of the Grantors will be joint and several, and the reference to "Grantor" shall be deemed to refer to each Grantor and to all Grantors. The rights, options, powers and remedies granted in this Deed of Trust and the other Loan Documents shall extend to the Beneficiary and to its successors and assigns, shall be binding upon the Grantor and its successors and assigns, and shall be applicable hereto and to all renewals, amendments and/or extensions hereof.

**6.8 Indemnification.** Except for harm arising from the Beneficiary's or the Trustee's willful misconduct, the Grantor hereby indemnifies and agrees to defend and hold the Beneficiary and the Trustee harmless from any and all losses, costs, damages, claims and expenses (including, without limitation, attorneys' fees and expenses) of any kind suffered by or asserted against the Beneficiary or the Trustee relating to claims by third parties arising out of the financing provided under the Loan Documents or related to the Mortgaged Property (including, without limitation, the Beneficiary's failure to perform its obligations relating to Environmental Matters described in Section 2.8 above) or the exercise by the Beneficiary or the Trustee of any of their respective powers, rights and remedies under this Deed of Trust. This indemnification and hold harmless provision will survive the termination of the Loan Documents and the satisfaction of this Deed of Trust and Obligations due the Beneficiary.

**6.9 Dissemination of Information:** If the Bank determines at any time to sell, transfer or assign the Note, this Deed of Trust and any other security instruments, and any or all servicing rights with respect thereto, or to grant participations therein ("Participations") or issue, in a public offering or private placement, mortgage pass-through certificates or other securities evidencing a beneficial interest in the loan ("Securities"), Bank may forward to each purchaser, transferee, assignee, servicer, participant, investor, or their respective successors in such Participations and/or Securities (collectively, the "Investor"), any rating agency rating such Securities and each prospective Investor, all documents and information which Bank now has or may hereafter acquire relating to the Indebtedness and to the Borrower, any guarantor of any of the Obligations ("Guarantor"), any party which has agreed to indemnify Bank with respect to the Obligations or the Mortgaged Property ("Indemnitor") and the Mortgaged Property, which shall have been furnished by Borrower, any Guarantor or any Indemnitor, as Bank determines necessary or desirable.

**6.10 Financial Statements.** Borrower agrees to provide current financial statements as requested by the holder of this Note, but during any time when this Note is not subject to a default, Borrower shall not be required to provide such financial statements more frequently than annually. If Borrower obtains financial statements which were audited or reviewed by an independent, certified public accountant for the relevant period, such financial statements provided hereunder shall be such reviewed of audited statements.

**6.11 Advances.** Beneficiary may make advances under the Deed of Trust to protect Beneficiary's interest in the Mortgaged Property from loss of value, and repayment of any such advances (including reasonable costs of recovery and attorney's fees) plus interest at the

default rate of interest provided in the Note is an obligation of Grantor, secured by the Deed of Trust.

6.12 **Notices.** Notice of any record shall be deemed delivered when the record has been (a) deposited in the United States Mail, postage pre-paid, (b) received by overnight delivery service, (c) received by telex, (d) received by telecopy, (e) received through the internet, or (f) when personally delivered.

6.13 **Release of Rights of Dower, Homestead and Distributive Share.** Each of the undersigned hereby relinquishes all rights of dower, homestead and distributive share in and to the Mortgaged Property, will not avail itself of any appraisal, valuation, redemption, stay, extension or exemption laws, or any so-called "moratorium laws," existing or hereafter enacted, to hinder the enforcement or foreclosure of this Deed of Trust, and hereby waives the benefit of such laws.

6.14 **Copy.** The Grantor hereby acknowledges the receipt of a copy of this Deed of Trust, together with a copy of each promissory note secured hereby, and all other documents executed by the Grantor in connection herewith.

6.15 **Riders.** The rider(s) attached hereto and recorded together with this Deed of Trust are hereby fully incorporated into this Deed of Trust. [Check applicable box(es)]  
☐ Condominium Rider    ☐ Second Deed of Trust Rider    ☐ Construction Loan Rider  
☒ Other(s) (Specify) Adjustable Rate Rider (Exhibit C).

6.16 **Disclosure.** By Oregon Statute (ORS 41.580), the following disclosure is required: under Oregon law, most agreements, promises and commitments made by lenders after October 3, 1989 concerning loans and other credit extensions which are not for personal, family or household purposes or secured solely by the borrower's residence must be in writing, express consideration and be signed by the lender to be enforceable.

[SIGNATURE(S) AND NOTARIZATION ON NEXT PAGE]

IN WITNESS WHEREOF, the undersigned has/have executed this Deed of Trust as of November 10, 2003.

Eric L. Mockridge  
Eric L. Mockridge

Barbara A. Mockridge  
Barbara A. Mockridge

(Beneficiary Address)

555 SW OAK  
PORTLAND OR 97204

(Grantor Address)

34106 McCARTIE LANE  
BONANZA, OR 97623

STATE OF OREGON )

County of Klamath )

ss.

This instrument was acknowledged before me on this 8 day of December, 2003, by Eric L. Mockridge.



Susan Marie Campbell  
Notary Public for Oregon  
My Commission Expires: 3-27-06

STATE OF OREGON )

County of Klamath )

ss.

This instrument was acknowledged before me on this 8 day of December, 2003, by Barbara A. Mockridge.

Susan Marie Campbell  
Notary Public for Oregon  
My Commission Expires: 3-27-06

EXHIBIT L: LEGAL DESCRIPTION  
EXHIBIT C: ADJUSTABLE RATE RIDER



**LEGAL DESCRIPTION**

**Parcel 1:**

**Lot 2, EXCEPT the easterly 809 feet thereof and all of Lots 3, 4 and 5, Riverside Tracts according go the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.**

**Parcel 2:**

**Lot 1 and the easterly 809 feet of Lot 2 in Riverside Tracts according go the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.**

**ALSO the NE1/4SE1/4of Section 11, Township 39 south Range 11 East of the Willamette Meridian**

**“including a minimum of 213.4 acres of irrigation water in the Horsefly Irrigation District and 225.0 acres of irrigation water right from a well in the Lost River Basin allocated under Certificate Number 80435 and perfected under Permit G-11431.”**



**ADJUSTABLE RATE RIDER**  
**(5 Year Treasury Index - No Rate Cap - Convertible)**

This ADJUSTABLE RATE RIDER is made this 10th day November, 2003, and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust or Security Deed (the "Security Instrument") of the same date given by the undersigned (the "Borrower") to secure Borrower's Adjustable Rate Note (the "Note") to U.S. Bank N.A. (the "Lender") of the same date and covering the property described in the Security Instrument and located in Klamath County, Oregon.

**THE NOTE CONTAINS PROVISIONS ALLOWING FOR CHANGES IN  
THE INTEREST RATE AND THE SEMI-ANNUAL PAYMENT. THE  
NOTE ALSO CONTAINS THE OPTION TO CONVERT THE  
ADJUSTABLE RATE TO ANOTHER RATE.**

**ADDITIONAL COVENANTS.** In addition to the covenants and agreements made in the Security Instrument, Borrower and Lender further covenant and agree as follows:

**A. ADJUSTABLE RATE AND SEMI-ANNUAL PAYMENT CHANGES**

The Note provides for an initial interest rate of 6.37%. The Note provides for changes in the adjustable interest rate and the semi-annual payments as follows:

**1. Payment of Principal and Interest.**

(a) Interest shall accrue on the unpaid balance of this Note at a rate equal to the sum of (i) the Current Index (defined below) and (ii) the Margin (defined below) ("the Adjustable Rate"). The Adjustable Rate shall change on the first day of each fifth January commencing January 1, 2009 (each, a "Rate Change Date") until the loan is repaid in full or until the Borrower exercises the option to convert the interest rate to another rate as provided in paragraph (f) below.

(b) The Adjustable Rate shall be 6.37% per annum until January 1, 2009.

(c) A payment of interest only calculated at the Adjustable Rate from the date of closing shall be due on the first day of January, 2004. Thereafter, consecutive semi-annual installments of principal and interest, each in the amount required to pay the unpaid principal balance of this Note in equal semi-annual installments, including accrued interest at the Adjustable Rate calculated over the 15 year period beginning with January 1, 2004 shall be payable on the first day of each January and July, until the entire indebtedness evidenced by this Note is fully paid. Any remaining indebtedness, if not sooner paid, shall be due and payable on the Maturity Date (as defined below). The initial installment of principal and interest in the amount of Fourteen Thousand One Hundred Six Dollars and 65/100s Dollars (\$14,106.65) shall be due on July 1, 2004. Thereafter, to the extent that the Adjustable Rate has changed, the amount of the installment payment shall change in accordance with the second sentence of this paragraph. For purposes of determining the "principal balance" under the second sentence of this paragraph, calculations shall be based on the binding presumption of timely future payments,

without any prepayments made after the date of the calculation, through the next scheduled Rate Change Date.

(d) At least 30 days before each Rate Change Date, Lender shall re-calculate the Adjustable Rate and shall notify Borrower (in the manner specified in the Security Instrument for giving notices) of any change in the Adjustable Rate and the installment payment due on each payment date.

(e) If Lender at any time determines, in its sole but reasonable discretion, that it has miscalculated the amount of any installment payment (whether because of a miscalculation of the Adjustable Rate or otherwise), then Lender shall give notice to Borrower of the corrected amount of the installment payment (and the corrected Adjustable Rate, if applicable) and (i) if the corrected amount of the installment payment represents an increase, then Borrower shall, within 30 calendar days thereafter, pay to Lender any sums that Borrower would have otherwise been obligated under this Note to pay to Lender had the amount of the installment payment not been miscalculated, or (ii) if the corrected amount of the installment payment represents a decrease thereof and Borrower is not otherwise in breach or default under any of the terms and provisions of this Note, the Security Instrument or any other loan document evidencing or securing this Note, then Borrower shall thereafter be paid the sums that Borrower would not have otherwise been obligated to pay to Lender had the amount of the installment payment not been miscalculated.

(f) If Borrower timely exercises Borrower's option to convert the interest rate on this Note to another rate pursuant to paragraph 3. ("Interest Rate Conversion Option") of this Note, the applicable interest rate under this Note, beginning on the date the conversion becomes effective and continuing until the Maturity Date, shall not be the rate determined in accordance with subsection (c) above, but shall be the rate established in accordance with Section 3 "Interest Rate Conversion Option" hereof. Such rate shall be reflected in an "Agreement to Convert" substantially in the form attached as Exhibit A to this Note.

(g) For purposes of this Section, the following definitions shall apply:

**Current Index:** The published Index that is in effect on the 45th day before the applicable Rate Change Date.

**Index:** The weekly average yield on United States Treasury securities adjusted to a constant maturity of five years published by the Federal Reserve Board. In the event the Federal Reserve Board ceases making the Index available, Lender shall select a comparable publication to determine the Index and provide notice thereof to Borrower. In the event no comparable organization publishes the Index, Lender shall select a method of calculating interest at the Adjustable Rate that Lender deems comparable in its sole discretion and provide notice thereof to Borrower.

**Margin:** 2.90%.

**Maturity Date:** January 1, 2019

**B. INTEREST RATE OPTION**

The Note provides for the Borrower's option to convert from an adjustable interest rate to another interest rate, as follows:

**3. Interest Rate Conversion Option.**

(a) **Option to Convert to Other Rate.** Borrower may exercise the Conversion Option unless Borrower is in default under this Note or the Security Instrument if the conditions of this Paragraph 3(a) are met. The "Conversion Option" is the Borrower's option to convert the interest rate specified in this Note from an adjustable rate with no interest rate limits to the converted rate calculated under Section 3(b) below.

The conversion can only take place on a Rate Change Date. The date on which the Borrower converts the adjustable interest rate to the converted rate is called the "Conversion Date."


The Borrower's ability to exercise the Conversion Option is conditioned upon: (i) the Borrower giving the Lender written notice at least 21 days prior to the Conversion Date that the Borrower wants to exercise the Conversion Option; (ii) at the Conversion Date, the Borrower must not be in default under the terms of this Note or the Security Instrument; (iii) payment to the Lender prior to the Conversion Date of a conversion fee of the greater of \$1,000 or 0.5 percent of the outstanding loan balance, not to exceed \$5,000; (iv) the Borrower's completion and execution of any documents the Lender requires to effect the conversion; and (v) the loan product selected for conversion being different from the current loan product.

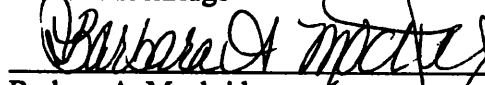
(b) **Calculation of Converted Rate.** The converted interest rate in effect as of the Conversion Date will be equal to the Federal Agricultural Mortgage Corporation's required net yield as of noon, Eastern Time, 7 days prior to the Conversion Date for a conversion to a loan product, other than the loan product under which the current interest rate was established, offered by the Federal Agricultural Mortgage Corporation. Such required net yield shall be that for (i) if Borrower elects to have the option to prepay the loan on any date a payment is due without paying a yield maintenance amount, the open prepay comparable (as determined in the Lender's sole discretion) term mortgages (with amortization terms equal to the amortization term of this Note) covered by applicable 1-week mandatory delivery commitments, plus 0.40%, or (ii) if Borrower agrees that any prepayment of the loan will be subject to Borrower's paying a yield maintenance amount, comparable (as determined in the Lender's sole discretion) term mortgages (with amortization terms equal to the amortization term of this Note) with yield maintenance covered by applicable 1-week mandatory delivery commitments, plus 0.40%. If this required net yield cannot be determined because the applicable commitments are not available, the Lender will determine the interest rate by using comparable information. If Borrower elects to convert to another adjustable rate product, the Federal Agricultural Mortgage Corporation's required net yield for conversion to the selected loan product will be higher than the applicable required net yield for new originations of the same loan product.

(c) **New Payment and Effective Date.** Upon the Borrower's exercise of the Conversion Option, the Lender will determine the amount of the semi-annual installment, which will be calculated to repay the unpaid principal (net of any principal payment due on the Conversion Date) in full on the final amortization date at the new interest rate in substantially equal payments.


BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Adjustable Rate Rider.


Borrowers:

  
Eric L. Mockridge

  
Barbara A. Mockridge

Grantors:

  
Eric L. Mockridge

  
Barbara A. Mockridge

Unofficial Copy