

RETURN TO:
Brandsness, Brandsness & Rudd, P.C.
411 Pine Street
Klamath Falls, OR 97601

State of Oregon, County of Klamath
Recorded 09/02/04 1:42 P m
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Linda Smith, County Clerk
Fee \$ 41.00 # of Pgs 4

Aspen: 59297MA
TRUST DEED AND SECURITY AGREEMENT
(With Future Advance Clause)

DATE.

THIS TRUST DEED is made on this 1st day of September, 2004.

PARTIES.

The parties to this trust deed are: David M. Kruger and Catherine Krueger, trustees of the Mount George Trust, hereafter called GRANTOR, whether one or more; Andrew C. Brandsness as TRUSTEE, and Associated Farm Mortgage, Inc., PO Box 85, Portales, New Mexico 88130, hereinafter called BENEFICIARY.

PROPERTY SECURED.

GRANTOR irrevocably grants, bargains, sells and conveys to TRUSTEE, in trust, with power of sale, the property in Klamath County, Oregon, described as:

PARCEL 1:

In Township 36 South, Range 11 East of the Willamette Meridian, in the County of Klamath, State of Oregon:

- Section 25: The E 1/2 SW 1/4 lying Southerly of the Highway
- Section 35: The SE 1/4
- Section 36: The NW 1/4; and the North 979 feet of the SW 1/4

PARCEL 2:

In Township 36 South, Range 11 East of the Willamette Meridian, in the County of Klamath, State of Oregon:

- Section 36: E 1/2 SW 1/4, SAVING AND EXCEPTING THEREFROM the Northerly 979 feet thereof, AND ALSO SAVING AND EXCEPTING the Westerly 261 feet thereof.

W 1/2 SE 1/4 lying Northerly of the right of way of the Klamath Falls-Lakeview Highway (State Routes 66 and 140)

In Township 37 South, Range 11 East of the Willamette Meridian, in the County of Klamath, State of Oregon:

- Section 1: Those portions of Government Lot 3 and the SE 1/4 NW 1/4 lying Northerly of the right of way of the Klamath Falls-Lakeview Highway.

Subject to existing easements, rights of way, and mineral interests or mineral leases owned by third parties under valid reservations or conveyances now of record; but including the following property, whether or not owned by GRANTOR on the date of this trust deed or acquired by GRANTOR after the date of this trust deed, or whether now or hereafter located on or appurtenant to the real estate described above. All improvements of any kind and character; all equipment and fixtures; all easements, rights of way and reversionary rights; all privileges, hereditaments and appurtenances; all water, irrigation and drainage rights; and all abstracts or other evidence of title; all of which shall be considered a part of the property securing the repayment of the loan described in this instrument.

One Johnston Pump Serial Number JU1088

All Water Rights

AMOUNT AND TERMS.

The GRANTOR has made a promissory note payable to the order of BENEFICIARY. The promissory note is dated 9-1-2004. The trust deed secures to the BENEFICIARY the payment of \$536,250.00 of the original principal sum and is payable with interest as shown in the promissory note and if not sooner paid, shall be due and payable in full on July 1, 2024 subject to extensions thereof. The promissory note states the interest rate on the principal sum, and may also provide for future changes in the interest rate. The principal sum consists of the original principal sum and substitutions and renewals thereof, and may consist of additional principal advances not to exceed \$none, as evidenced by the GRANTOR'S notes and bearing interest as provided in said notes. The trust deed secures the repayment of the principal sum with interest, and any additional indebtedness arising under the terms and conditions of this trust deed.

PROMISES BY GRANTOR.

GRANTOR promises as follows:

1. **TITLE.** To be the owner of fee simple title to the real estate described above, and to be the owner of unconditional title to all other property which secures repayment of this trust deed; to have a good right to encumber said property; that all property is free and clear of all liens and encumbrances; and to guarantee and defend title to all property which is the subject of this trust deed against the lawful claims or demands of all persons not parties to this agreement.

*36 A
+5*

2. **USE OF LOAN PROCEEDS.** To use the proceeds from the loan secured by this trust deed solely for the purposes stated by GRANTOR in GRANTOR'S loan application.
3. **PAYMENT.** To pay when due all payments as set out in the note secured by this trust deed.
4. **TAXES AND ASSESSMENTS.** To pay when due all taxes and assessments lawfully levied or assessed against the property secured by this instrument, and also to pay all lawful claims, liens, judgments or encumbrances which may be or become prior to this trust deed.
5. **INSURANCE AND ITS PROCEEDS.** To insure the buildings and improvements now on, or which may be placed on, the real estate described above, and to keep such buildings and improvements insured against such hazards and in such amounts as the BENEFICIARY may require. The policy of insurance shall contain a loss-payable clause in favor of the BENEFICIARY, as its interest may appear. If there is a loss, and if the payments on the note secured by this trust deed are current and if there is no violation of the terms of this trust deed by GRANTOR, any sums received by the BENEFICIARY for loss under the policy may be used to pay for reconstruction of the destroyed buildings or improvements; if not so applied, or if there is a violation of the terms of this trust deed by GRANTOR, then, at the BENEFICIARY'S option, any sums received by the BENEFICIARY may be applied in payment of matured debt, or as extra payments on unmatured debt in the manner provided for in the promissory note secured by this trust deed.
6. **COMPLIANCE WITH LAWS: REPAIR, WASTE, REMOVAL.** To comply with all laws, ordinances, regulations, covenants, conditions and restrictions which affect the security; to keep the security in good condition and repair at all times; not to commit or permit waste of, or nuisance on, the security, nor to permit unreasonable depreciation of the physical condition or value of the security through erosion, insufficient water supply, inadequate or improper drainage or irrigation, or any other cause; or, unless written consent of the BENEFICIARY is first obtained, not to cut or remove, or permit the cutting or removal of, growing timber, except for domestic purposes; nor to remove or permit removal of any improvements, except for appropriate replacement.
7. **REIMBURSEMENT OF COSTS AND EXPENSES TO BENEFICIARY.** To promptly reimburse the BENEFICIARY for all costs and expenses which the BENEFICIARY may incur in any suit to foreclose this trust deed, or in any suit in which the BENEFICIARY may be obliged to defend or protect its lien under bankruptcy laws or other laws, or any of the other rights it may have under this trust deed, including all abstract fees, all court costs, a reasonable attorney's fee where allowed by law, and all other expenses. Any expenses so incurred by the BENEFICIARY shall be secured by this trust deed, may be included in any decree of foreclosure, and may be added as advances to the loan balance when paid, as provided in the section labeled 'ADVANCES' below.
8. **LIFE AND/OR DISABILITY INSURANCE: APPLICATION OF PROCEEDS.** To obtain and maintain life and/or disability insurance in such amount as the BENEFICIARY may require in its loan Commitment or in any later loan servicing agreement between GRANTOR and BENEFICIARY. The insurance policy will provide that all insurance proceeds are to be fully payable to the BENEFICIARY. All such proceeds shall be applied, first, to the payment of any matured indebtedness due the BENEFICIARY, and, secondly, toward payment of the unmatured principal amount due the BENEFICIARY. Any insurance proceeds remaining after full satisfaction of the BENEFICIARY'S debt shall be forwarded to such person as GRANTOR may have designated in the insurance policy, or, if a person is not designated, to GRANTOR or to GRANTOR'S successors in interest, and the BENEFICIARY shall be held harmless in, and incur no liability for so doing.
9. **ENVIRONMENTAL REPRESENTATIONS, WARRANTIES, COVENANTS, AND INDEMNITIES.** With respect to the property, GRANTOR has complied, is in compliance, and will at all times comply in all respects with all applicable laws (whether statutory, common law or otherwise), rules, regulations, orders, permits, licenses, ordinances, judgments, or decrees of all governmental authorities (whether federal, state, local or otherwise), including, without limitation, all laws regarding public health or welfare, environmental protection, water and air pollution, composition of product, underground storage tanks, toxic substances, hazardous wastes, hazardous substances, hazardous materials, waste or used oil, asbestos, occupational health and safety, nuisances, trespass, and negligence.
10. **RIGHT OF INSPECTION.** The GRANTOR hereby grants, and will cause any tenants to grant, to BENEFICIARY, its agents, attorneys, employees, consultants, contractors, successors and assigns, an irrevocable license and authorization, upon reasonable notice, to enter upon and inspect the Property and facilities thereon, and perform such tests, including without limitation, subsurface testing, soils and groundwater testing, and other tests which may physically invade the Property thereon, as the BENEFICIARY, in its sole discretion, determines is necessary to protect its security interest, provided however, that under no circumstances shall the BENEFICIARY be obligated to perform such inspections or tests.
11. **INDEMNITY.** GRANTOR agrees to indemnify and hold BENEFICIARY, its directors, employees, agents, and its successors and assigns, harmless from and against any and all claims, losses, damages, liabilities, fines, penalties, charges, judgments, administrative orders, remedial action requirements, enforcement actions of any kind, and all costs and expenses incurred in connection therewith (including, but not limited to, attorney's fees and expenses, including all attorneys fees and expenses incurred by BENEFICIARY in enforcing this indemnity), arising directly or indirectly, in whole or in part, out of any failure of GRANTOR to comply with the environmental representations, warranties and covenants contained herein.
12. **CONTINUATION OF REPRESENTATIONS, WARRANTIES, COVENANTS AND INDEMNITIES.** GRANTOR'S representations, warranties, covenants and indemnities contained herein shall survive the occurrence of any event whatsoever, including without limitation, the satisfaction of the promissory note secured hereby, the reconveyance or foreclosure of this trust deed, the acceptance by BENEFICIARY of a deed in lieu of foreclosure, or any transfer or abandonment of the property.
13. **ASSIGNMENT OF MINERAL INCOME AND DAMAGES.** To provide for payment of the debt secured by this trust deed, GRANTOR hereby assigns to the BENEFICIARY all sums of money which are now due or hereafter may become due to GRANTOR for claims, injury or damage to the security from any cause, and also all sums which are now due or hereafter may become due to GRANTOR as rents, royalties, bonuses or delay rentals under any oil, gas or other mineral lease now existing, or hereafter entered into by GRANTOR on the real estate described above. To assign payment of these sums to the BENEFICIARY, GRANTOR agrees to execute and deliver to the BENEFICIARY any further instruments which the BENEFICIARY may require, at the BENEFICIARY'S option, sums paid to it by virtue of this assignment may be released by the BENEFICIARY to GRANTOR, and release of any such sums shall not prevent the BENEFICIARY from receiving payment of any other sums under this assignment. If not released by the BENEFICIARY to GRANTOR, such sums may be applied to pay any matured debt owing to the BENEFICIARY, or, if no matured debt exists, such sums may be applied as advance payment of principal, according to the provisions of the promissory note described above. Release of this trust deed of record shall automatically terminate the BENEFICIARY'S right to receive any further sums under this assignment.
14. **WATER RIGHTS.** The GRANTOR shall abide by all the statutes, rules, and regulations of any and all state and local authorities having jurisdiction over the use and distribution of water or water resources, and further covenants and agrees not to transfer, sell or assign or relinquish the water rights now held or hereafter acquired covering the above described property without the written consent of the BENEFICIARY.
15. **ADVANCES.** In the event GRANTOR does not pay when due any costs incurred for abstracting, surveys, title curative work and recording fees which are to be paid by GRANTOR as provided for in the application or commitment for this loan, or in the event GRANTOR does not pay when due any taxes, or lawful liens, judgments, assessments or other charges which GRANTOR promises by the terms of this trust deed to pay, or in the event GRANTOR does not maintain insurance as provided for in this trust deed, the BENEFICIARY may make such payments or provide such insurance, and each payment which the BENEFICIARY makes on any of these items shall become a part of the debt secured by this trust deed and be added onto GRANTOR'S loan; however, any sum so paid by the BENEFICIARY shall immediately be payable by GRANTOR and shall bear interest from the date the BENEFICIARY advances such sums until the date GRANTOR pays them, as provided for in the promissory note described above. The BENEFICIARY shall be the sole judge of the legality, necessity or propriety of making any such payment of providing any such insurance, and shall be held harmless in, and incur no liability for so doing.
16. **SECURITY AGREEMENT.** In the absence of a separate security agreement entered into by GRANTOR and BENEFICIARY, this trust deed shall constitute and shall be a security agreement pursuant to the Uniform Commercial Code with respect to any goods, fixtures, equipment,

appliances or articles of personal property specified above or described in a separate schedule attached hereto (hereinafter collectively referred to in this paragraph as "personal property") which are a part of the Property and which, under applicable law, are or may be subject to a security interest pursuant to the Uniform Commercial Code, and GRANTOR hereby grants BENEFICIARY a security interest in said personal property. GRANTOR agrees to execute and deliver from time to time financing statements covering said personal property in such form as BENEFICIARY may require to perfect its security interest therein. Upon GRANTOR'S breach of any covenant or agreement contained in this trust deed, including but not limited to GRANTOR'S covenants to pay when due all sums secured by the trust deed. BENEFICIARY shall have all the remedies of a secured party under the Uniform Commercial Code and, at BENEFICIARY'S option, may also invoke the remedies provided in this trust deed with respect to the personal property secured hereby.

17. **BREACH OF PROMISES IN THIS AGREEMENT: ACCELERATION OF DEBT.** In the event GRANTOR does not comply with any of the promises contained in this trust deed, or does not do any of the acts which GRANTOR agrees to do under the terms of this trust deed, or in the event GRANTOR makes an assignment for the benefit of his creditors, or if a petition for or appointment of a receiver or trustee to take charge of the GRANTOR'S property occurs, or if any proceedings are commenced which might result in loss or reduction of the uses and enjoyment of the security for this loan, or if at any time the BENEFICIARY shall deem itself insecure, then the BENEFICIARY may declare a default and the debt secured by this trust deed shall immediately become fully due and payable and bear interest as provided for in the promissory note described above and this trust deed shall become immediately subject to foreclosure. In such event the BENEFICIARY may elect to proceed to foreclose this trust deed in equity as a mortgage or direct the TRUSTEE to foreclose this trust deed by advertisement and sale, or may direct the TRUSTEE to pursue any other right or remedy, either at law or in equity, which the BENEFICIARY may have. In the event the BENEFICIARY elects to foreclose by advertisement and sale, the BENEFICIARY or the TRUSTEE shall execute and cause to be recorded a written notice of default and election to sell the property to satisfy the obligation secured hereby whereupon the TRUSTEE shall fix the time and place of sale, give notice thereof as then required by law and proceed to foreclose this trust deed in the manner provided in ORS 86.735 to 86.979. The BENEFICIARY may, however, at its sole option and without notice, waive such acceleration, but no waiver shall prevent the BENEFICIARY from again accelerating the debt based on a later breach of the promises contained in this trust deed.

18. **CURE OF DEFAULT.** After the TRUSTEE has commenced foreclosure by advertisement and sale, and at any time prior to 5 days before the date the TRUSTEE conducts the sale, the GRANTOR or any other person so privileged by ORS 86.753 may cure the default or defaults. If the default consists of a failure to pay, when due, sums secured by the trust deed, the default may be cured by paying the entire amount due at the time of the cure other than such portion as would not then be due had no default occurred. Any other default that is capable of being cured may be cured by tendering the performance required under the obligation or trust deed. In any case, in addition to curing the default or defaults, the person effecting the cure shall pay to the BENEFICIARY all costs and expenses actually incurred in enforcing the obligation of the trust deed, together with TRUSTEE and attorney fees not exceeding the amounts provided by law.

19. **SALE.** Otherwise, the sale shall be held on the date and at the time and place designated in the notice of sale or the time to which the sale may be postponed as provide by law. The TRUSTEE may sell the property either in one parcel or in separate parcels and shall sell the parcel or parcels at auction to the highest bidder for cash, payable at the time of sale. Trustee shall deliver to the purchaser its deed in form as required by law conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in the deed of any matters of fact shall be conclusive proof of the truthfulness thereof. Any person, excluding the TRUSTEE, but including the GRANTOR and BENEFICIARY, may purchase at the sale.

20. **PROCEEDS OF SALE.** When TRUSTEE sells pursuant to the powers provided herein, TRUSTEE shall apply the proceeds of sale to payment of: (1) the expenses of sale, including the compensation of the TRUSTEE and a reasonable charge by TRUSTEE'S attorney; (2) to the obligation secured by the trust deed; (3) to all persons having recorded liens subsequent to the interest of the TRUSTEE in the trust deed as their interests may appear in the order of their priority; and (4) the surplus, if any, to the GRANTOR, or to any successor in interest entitled to such surplus.

21. **APPOINTMENT OF SUCCESSOR TRUSTEE.** Beneficiary may, from time to time, appoint a successor or successors to any TRUSTEE named herein or to any successor TRUSTEE appointed hereunder. Upon such appointment, and without conveyance to the successor TRUSTEE, the latter shall be vested with all title, powers and duties conferred upon any TRUSTEE herein named or appointed hereunder. Each such appointment and substitution shall be made by written instrument executed by BENEFICIARY, which, when recorded in the mortgage records of the county or counties in which the property is situated, shall be conclusive proof of property appointment of the successor TRUSTEE.

22. **ACCEPTANCE BY TRUSTEE.** Trustee accepts this trust when this deed, duly executed and acknowledged, is made a public records as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other deed of trust or of any action or proceeding in which GRANTOR, BENEFICIARY or TRUSTEE shall be a party unless such action or proceeding is brought by TRUSTEE.

23. **CHANGE OF OWNERSHIP.** In the event of a change of ownership of the property securing this loan, the BENEFICIARY may declare a default and the debt secured by this trust deed shall become immediately due and payable and bear interest as provided for in the promissory note described above and this trust deed shall become immediately subject to foreclosure unless the BENEFICIARY has given its written consent before such change, or unless the change was the direct result of the death of GRANTOR. "Change of Ownership" means a voluntary or involuntary transfer of title to the security, or any part of it or interest in it, and includes any change in the entity structure, control, operation or ownership which would make GRANTOR ineligible to borrow from the BENEFICIARY. Regardless of whether a change of ownership appears as a matter of public record, the BENEFICIARY will have 60 days from the date of receiving a written notice of change of ownership to accelerate the debt and if the BENEFICIARY does not do so within this 60 days its right to accelerate the debt shall expire.

24. **RIGHT TO ENTER UNOCCUPIED PREMISES IN TIME OF EMERGENCY AND MAKE REPAIRS: ADVANCES FOR REPAIR.** If this trust deed is subject to foreclosure, and if the property secured herein reasonably appears unoccupied to the BENEFICIARY, and if the BENEFICIARY determines that an emergency exists, the BENEFICIARY may go on the property for the sole purpose of repairing, preserving or protecting its security without becoming a grantee-in-possession. Any advances made for these purposes shall become a part of the debt secured by this trust deed, and shall become immediately due and payable in the same way as other advances are dealt with, above. The BENEFICIARY shall be held harmless in, and incur no liability for doing the things provided for in this paragraph, and shall be the sole judge of the necessity or propriety of so doing.

25. **CONDEMNATION OR CONVEYANCE IN LIEU OF CONDEMNATION.** The proceeds of any award, compensation or claim for damages, direct or consequential, in connection with any condemnation or other taking of the property secured herein, or any part of it, or for a conveyance in lieu of condemnation, are hereby assigned and shall be paid to the BENEFICIARY. Any money so received may, at the option of the BENEFICIARY, be applied, in part or in total, on the debt secured by this trust deed, whether due or not, and any money not so applied will be returned to GRANTOR.

26. **FORECLOSURE: ENTITLEMENT TO ABSTRACTS, RECEIVERSHIP, RENTS AND PROFITS.** In the event this trust deed is foreclosed, the BENEFICIARY shall be entitled to all abstracts and other evidences of title, to have a receiver appointed by the Court to take possession of the security to collect rents and profits, and all amounts so collected shall be applied, under the direction of the Court, to the expenses of the receivership, and to payment of any judgment rendered or any amount secured by this trust deed.

27. **BENEFICIARY'S RIGHTS IN LOAN SERVICING.** The BENEFICIARY shall have the right, at any time and without notice, to release all or any part of the security, to grant extensions, deferrals, renewals or reamortizations of all or any part of the debt secured by this trust deed, and to release from personal liability any party now or hereafter personally liable for repayment of the debt secured by this trust deed, all without affecting the provisions or priority of this trust deed or the security which remains or the personal liability of any party not specifically released from personal liability.

28. **WAIVER OF ELECTION. STAY. VALUATION AND HOMESTEAD. OF REDEMPTION RIGHTS WHERE ALLOWED BY LAW. AND OF THE BENEFIT OF ALL APPRAISEMENT LAWS.** GRANTOR, by signing this trust deed, waives notice of election to declare the debt due, and also waives the benefit of all stay, valuation and homestead laws. Where permitted by law, GRANTOR also waives all rights of redemption as to any corporation or partnership which may succeed to GRANTOR'S interest in the security, and, if GRANTOR is a

corporation or partnership, waives its own rights of redemption. GRANTOR also waives, where permitted by law, the benefit of all appraisal laws at the option of the BENEFICIARY, which option is to be exercised no later than at the time of judgment in foreclosure.

WARNING; Unless GRANTOR provides BENEFICIARY with evidence of insurance coverage as required by the contract or loan agreement between them, BENEFICIARY may purchase insurance at GRANTOR'S expense to protect BENEFICIARY'S interest. This insurance may, but need not, also protect GRANTOR'S interest. If the collateral becomes damaged, the coverage purchased by BENEFICIARY may not pay any claim made by or against GRANTOR. GRANTOR may later cancel the coverage by providing evidence that GRANTOR has obtained property coverage elsewhere. GRANTOR is responsible for the cost of any insurance coverage purchased by BENEFICIARY, which cost may be added to GRANTOR'S contract or loan balance. If it is so added, the interest rate on the underlying contract or loan will apply to it. The effective date of coverage may be the date GRANTOR'S prior coverage lapsed or the date GRANTOR failed to provide proof of coverage. The coverage BENEFICIARY purchases may be considerably more expensive than insurance GRANTOR might otherwise obtain alone and may not satisfy any need for property damage coverage or any mandatory liability insurance requirements imposed by applicable law.

The GRANTOR warrants that the proceeds of the loan represented by the above-described note and this trust deed are (choose one) (a) primarily for GRANTOR'S personal, family or household purposes. (b) for an organization, or (even if GRANTOR is a natural person) are for business or commercial purposes.

THE PROMISES AND AGREEMENTS CONTAINED IN THIS TRUST DEED SHALL BE BINDING ON THE HEIRS, EXECUTORS, ADMINISTRATORS, SUCCESSORS AND ASSIGNS OF ALL PARTIES TO THIS TRUST DEED.

MOUNT GEORGE TRUST

By [Signature]
David M. Krueger, Trustee

By [Signature]
Catherine Krueger, Trustee

California San Francisco
STATE OF OREGON, County of ~~Klamath~~ ss.

Personally appeared before me this 1st day of September, 2004, the above named David M. Krueger as Trustee of the Mount George Trust, and acknowledged the foregoing instrument to be its voluntary act and deed.

[Signature]
Notary Public for Oregon *CA*
My Commission expires: 12/22/04

California San Francisco
STATE OF OREGON, County of ~~Klamath~~ ss.

Personally appeared before me this 1st day of September, 2004, the above named Catherine Krueger as Trustee of the Mount George Trust, and acknowledged the foregoing instrument to be its voluntary act and deed.

[Signature]
Notary Public for Oregon
My Commission expires: 12/22/04

