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MT-13910-4571

Vol M05 Page 00598

AFTER RECORDING RETURN TO:
Oregon Economic & Community Development Department
775 Summer Street, NE
Salem, Oregon 97301-1280

State of Oregon, County of Klamath
Recorded 01/04/2005 10.552 m
Vol M05 Pg 00598-602
Linda Smith, County Clerk
Fee \$ 41.00 # of Pgs 5

EDLF Loan No.218

TRUST DEED

This TRUST DEED is made this 4th day of January, 2005 between Kelly and Jeff Holcomb, 10111 Dehlinger Lane, Klamath Falls, OR 97603, (herein collectively "Grantor"), Amerititle, 300 Klamath Avenue, Klamath Falls, OR 97601, as trustee (herein "Trustee"), and the State of Oregon, acting by and through its Economic & Community Development Department, 775 Summer Street, NE, Salem, Oregon 97301-1280, as Beneficiary (herein "Lender").

WHEREAS, Grantor is the owner of real property located in the County of Klamath, and State of Oregon and known as:

The South 744 feet of the following described parcel: All of that portion of the SW1/4 SE1/4 of Section 5, Township 40 South, Range 10 East of the Willamette Meridan, Klamath County, Oregon, lying East of "G" Canal, and Southerly and Westerly of Hill Road.

Tax Account No: 4010-00500-01700-000 Key No: 96504

including all appurtenances, buildings and existing or future improvements located thereon and all fixtures and attachments thereto for all purposes of this Trust Deed, and

WHEREAS, Lender has agreed to lend Grantor, and Grantor has agreed to borrow from Lender, the sum of Twenty Thousand DOLLARS (U.S. \$20,000) upon the terms and conditions set forth in that certain loan agreement dated 1/4/2005 between Lender and Grantor (as amended from time to time the "Loan Agreement"), and the loan made by Lender to Borrower pursuant to the Loan Agreement is evidenced by that certain promissory note dated concurrently with this Trust Deed made by Borrower and payable to Lender (as amended and/or restated from time to time the "Note"), with final payment due on January 4, 2010, which is the maturity date of this Trust Deed.

NOW THEREFORE, to secure payment by Grantor of the indebtedness evidenced by the Note in strict accordance with its terms, including payment of interest thereon, all of which terms of the Note are incorporated by this reference herein, to secure performance by Grantor of the covenants contained herein and in the Note by it to be performed, to secure payment of any other indebtedness of Grantor to Lender which arises directly or indirectly out of the Note or this Trust Deed, Grantor hereby grants, bargains, sells, and conveys to Trustee, in trust, with power of sale, all the property described in the first recital hereof and presently assigns the rents, revenues, income, issues and profits therefrom (the property described in the first recital hereof and the rents, revenues, income, issues and profits therefrom collectively referred to as the "Trust Property") to the Lender upon the terms set forth herein.

PROVIDED HOWEVER, that until the occurrence of an Event of Default, as later defined herein, Grantor may remain in control of and operate and manage the Trust Property, and collect and enjoy the rents, revenues, income, issues and profits therefrom; and

PROVIDED FURTHER, that if Grantor shall make all payments for which provision is made in the Note in strict accordance with the terms thereof and shall perform all of the covenants contained therein, and shall make all payments due on any other indebtedness and shall perform all of the covenants contained in any other instrument evidencing or securing an indebtedness of Grantor to Lender, and if Grantor shall perform all of the covenants contained in this Trust Deed, then Trustee shall execute and deliver to Grantor, without warranty, a reconveyance of the Trust Property.

A. THE PARTIES FURTHER WARRANT, COVENANT AND AGREE AS FOLLOWS:

Payment of the Note. Grantor shall promptly pay when due the principal and interest on the indebtedness evidenced by the Note, and by any note or notes given in renewal or replacement thereof, and the principal and interest on any future advances secured by this Trust Deed.

II

Grantor's Representations and Warranties. Grantor represents and warrants to Beneficiary that (1) Grantor is lawfully seized of the Trust Property and has the right to grant and convey the Trust Property, (2) the Trust Property is free from all liens, security interests and encumbrances, except for a security interest granted to EquiFirst to secure a loan of not more than \$233,000 ("Permitted Encumbrance"), and Grantor will defend Lender's and Trustee's rights hereunder against the claims and demands of all persons and will perform all obligations required of Grantor under the Permitted Encumbrance and pay and satisfy all liens, judgments, taxes and charges when due and payable and before the same become delinquent, so as to prevent enforcement of the same or forfeiture of the Trust Property or any part thereof, and (3) the proceeds of the loan represented by the Note and this Trust Deed are not to be used for Grantor's personal, family, household or agricultural purposes and are to be used for business or commercial purposes.

III

Use of Trust Property. Grantor covenants and warrants that the current use of the Trust Property is in compliance with all laws, ordinances and regulations of all governmental authorities.

IV

Maintenance of the Trust Property. Grantor shall maintain the Trust Property in good condition and repair and promptly perform all repairs and maintenance necessary to preserve its value and shall not commit or permit any nuisance or waste on the property. Grantor shall not demolish or remove any improvements from the Trust Property without the prior written consent of Lender.

V

AMERITITLE has recorded this instrument by request as an accommodation only, and has not examined it for regularity and sufficiency or as to its effect upon the title to any real property that may be described therein.

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Lender's Right to Enter and Inspect Trust Property. Grantor will permit Lender, and its agents, to enter upon the Trust Property at all reasonable times to inspect the Trust Property.

VI

Taxes and Assessments. Grantor shall pay when due all taxes and all assessments imposed against the Trust Property and all claims and demands arising from Grantor's use or occupancy of the Trust Property.

VII

Protection of the Trust Property from Liens. Grantor shall not permit any lien prior or equal to the Trustee's title to be imposed upon the Trust Property, except liens for taxes or assessments assessed but not yet due.

VIII

Insurance. Grantor shall carry such insurance as Lender shall reasonably require. This shall include insurance on the Trust Property, including all buildings, improvements and additions now existing, or hereafter erected, on the Trust Property, against fire, additional risks covered by a standard endorsement for extended coverage, and such other risks as may be specified by Lender. Insurance on the Trust Property shall be carried in companies and under policies acceptable to Lender and shall be for an amount equal to the full insurable value of the property and an amount sufficient to avoid application of any co-insurance clause.

All policies of insurance on the Trust Property shall bear a lender's loss payable endorsement in a form satisfactory to Lender. Lender shall have the right to hold the policies and renewals thereof, and Grantor shall promptly furnish to Lender all renewal notices and all receipts of paid premiums. In the event of loss, Grantor shall give prompt notice to the insurance carrier and Lender, and Lender may make proof of loss if not promptly made by Grantor. Insurance proceeds shall be paid directly to Lender which may deal directly with any insurance company. If Lender by reason of such insurance receives any money for loss or damage, such amounts may, at the option of Lender, either: (a) be retained and applied by Lender toward payment of all or part of the indebtedness secured by this Trust Deed in such order as Lender may determine, without regard to whether or not the security of Lender is impaired; or (b) be paid over wholly or in part to the Grantor upon such conditions as Lender may determine for the repair of buildings or improvements located on the Trust Property or for the erection of new buildings or improvements in their place, or for any other purpose or object satisfactory to Lender.

Unless Lender and Grantor otherwise agree in writing, any such application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in paragraph I of Section A hereof or change the amount of such payments.

If, pursuant to the Trustee's exercise of the power of sale or in the event of a judicial foreclosure, the Trust Property is acquired by Lender, all right, title and interest of Grantor in and to any insurance policies and in and to the proceeds thereof (to the extent of the sum secured by this Trust Deed immediately prior to such sale or acquisition) resulting from damage to the Trust Property prior to the sale or acquisition, shall pass to Lender.

IX

Protection of Lender's Security. If Grantor fails to perform any of the covenants and agreements contained in this Trust Deed, or if any action or proceeding is commenced which may adversely affect the Trust Property, or Lender's interest therein, or the title of Grantor thereto, the Lender, at its sole option, and without waiving any other remedies, may perform such covenants and agreements, disburse such sums, defend against such action or proceeding, and take such other action as Lender deems necessary to protect its interests. Grantor irrevocably authorizes and empowers Lender to enter the Trust Property as Grantor's agent and, in Grantor's name or otherwise, to perform any and all covenants and agreements to be performed by Grantor as herein provided. Nothing herein requires Lender to take any action or incur any expense, and Lender shall not be liable to Grantor for any damages or claims arising out of action taken by Lender pursuant to this paragraph. Any amounts disbursed or debts incurred by Lender pursuant to this paragraph shall become indebtedness of Grantor to Lender, shall bear interest from the date of disbursement at the rate stated in the Note, shall be payable upon demand, and shall be secured by this Trust Deed.

WARNING

Unless Grantor can provide Lender with evidence of the insurance coverage as required by this Trust Deed, Lender may purchase insurance at the Grantor's expense to protect its interest. This insurance may, but need not, also protect the Grantor's interest. If the collateral becomes damaged, the coverage Beneficiary purchases may not pay any claim Grantor makes or any claim made against Grantor. Grantor may later cancel this coverage by providing evidence that Grantor has obtained such insurance elsewhere.

Grantor is responsible for the cost of any insurance purchased by Lender. The cost of this insurance may be added to Grantor's loan balance. If the cost is added to Grantor's loan balance, the interest rate on the underlying loan will apply to this added amount. 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 that Lender purchases may be considerably more expensive than insurance that Grantor can obtain on its own and may not satisfy any basis for property damage coverage or any mandatory liability insurance requirements imposed by applicable law.

X

Future Advances. Upon the request of Grantor, Lender, at Lender's option prior to full reconveyance of the Trust Property by Trustee to Grantor, may make future advances to Grantor. Such future advances, with interest thereon, shall be secured by this Trust Deed.

XI

Condemnation. If the Trust Property, or any part thereof or interest therein, should be taken or damaged by reasons of any public improvement or condemnation proceeding, or similar type of proceeding, or if Grantor should receive any notice or other information regarding a condemnation proceeding or similar type of proceeding, Grantor shall immediately notify Lender.

Lender shall be entitled to all compensation, awards and other payments or relief related to condemnation, and shall be entitled at its sole option to commence, appear in and prosecute in its own name any such action or proceeding. Lender also shall be entitled to make any compromise or settlement in connection with such taking or damage. All such compensation, awards, damages, rights of action and proceeds awarded to Grantor ("Condemnation Proceeds") are hereby assigned to Lender, and Grantor shall execute such further assignments of the Condemnation Proceeds as Lender may require. Lender shall have the option, in its sole and absolute discretion, to either:

- (a) apply such Condemnation Proceeds, after deducting therefrom all costs and expenses (regardless of the particular nature thereof and whether incurred with or without suit), including attorney fees incurred by Lender in connection with such Condemnation Proceeds, upon all or part of the indebtedness secured by this Trust Deed in such order as Lender may determine, without regard to whether or not the security of Lender is impaired, or
- (b) apply all of such Condemnation Proceeds, after deducting all of Lender's costs and expenses, to the restoration of the Trust Property upon such conditions as Lender may determine.

XII

Security Agreement. This Trust Deed shall constitute a security agreement with respect to all fixtures attached to the Trust Property, and in the proceeds and products thereof, to secure all indebtedness and obligations secured by this Trust Deed and all future advances and all future indebtedness and obligations of Grantor to Lender. This Trust Deed also shall constitute a financing statement and shall be filed for recording in the real estate records of the county where the Trust Property is located.

XIII

Successors and Assigns Bound; Number; Joint and Several Liability. This Trust Deed shall be binding on and inure to the benefit of the respective heirs, legal representatives, successors and assigns of Grantor and Lender. Whenever used, the singular number shall include the plural, and the plural the singular; and the use of any gender shall apply to all genders. All covenants and agreements of the Grantor shall be joint and several.

XIV

Governing Law; Severability. This Trust Deed shall be governed by the laws of the State of Oregon. In the event that any provision or clause of this Trust Deed shall be held to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect any other provision of this Trust Deed and, to this end, the provisions of this Trust Deed are severable.

XV

Substitute Trustee. In the event of dissolution or resignation of the Trustee or if Lender removes Trustee, Lender may appoint a successor trustee. The successor trustee shall succeed to all the title, powers and duties conferred upon the Trustee herein and by applicable law.

XVI

Indemnity. Grantor shall hold Lender and Trustee harmless from any and all loss and expense, including but not limited to attorney fees and court costs in any suit, action or proceeding or any appeal therefrom brought against Trustee or Lender by a third party resulting from or attributable to Lender's ownership of the Note or Trustee's interest under this Trust Deed.

XVII

Expenses and Attorney Fees. In the event that Lender or Trustee shall take any action, judicial or otherwise, to enforce the Note or any provision of this Trust Deed or if Lender or Trustee shall be required to appear in any proceeding to protect and maintain the priority of Trustee's title to the Trust Property, Trustee or Lender (or both) shall be entitled to recover from Grantor all expenses which it may reasonably incur in taking such action, including but not limited to, costs incurred in searching records, the cost of title reports and surveyors' reports, and its attorney fees, whether incurred in a suit or action or any appeals from a judgment or decree therein or in connection with nonjudicial action.

XVIII

Compliance with All Laws and Governmental Requirements. Grantor shall comply with all laws, ordinances and regulations of all governmental authorities applicable to the use or occupancy of the Trust Property. Grantor may contest in good faith any such law, ordinance or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Lender's and Trustee's interests in the Trust Property are not jeopardized.

XIX

Additional Instruments. Grantor agrees to execute and deliver any additional instruments necessary to carry out any agreement, term, condition, or assurance herein whenever reasonable request for such instrument shall be made.

XX

Trustee's Obligation to Notify. Trustee is not obligated to notify any party hereto of any action or proceeding in which Grantor, Lender or Trustee shall be a party unless brought by Trustee.

XXI

Reconveyance. Upon payment of all sums secured by this Trust Deed, Lender shall request Trustee to reconvey the Trust Property and shall surrender this Trust Deed and all notes evidencing indebtedness secured by this Trust Deed to Trustee. Trustee shall reconvey the Trust Property without warranty and without charge to the person or persons legally entitled thereto. Such person or persons shall pay all costs of recordation, if any.

XXII

Lender's Right to Cure. If Grantor fails to perform any obligation required of it under this Trust Deed, Lender may take any steps necessary to remedy such failure. Grantor shall reimburse Lender for all amounts expended in so doing on demand. Such action by Lender shall not constitute a waiver of the default or any other right or remedy which Lender may have on account of Grantor's default.

XXIII

Time of Essence. Time is of the essence in this Trust Deed.

XXIV

Notice. Except for notices required under law to be given in another manner, (a) any notice to Grantor provided for in this Trust Deed shall be deemed to have been given to Grantor if given by personal delivery of such notice to Grantor or by mailing such notice by certified mail, return receipt requested, addressed to Grantor at the Trust Property address and (b) any notice to Lender shall be given by certified mail, return receipt requested, to Lender's address stated herein. Any party may by notice to the others designate a different address.

XXV

Heading. The headings to the sections and paragraphs of this Trust Deed are included only for the convenience of the parties and shall not have the effect of defining, diminishing or enlarging the rights of the parties or affecting the construction or interpretation of any portion of this Trust Deed.

XXVI

Entire Agreement. This Trust Deed contains the entire agreement of the parties with respect to the subject matter hereof, and no other previous agreement, statement or promise made by any party to this Trust Deed which is not contained in its terms or in the terms of the Note shall be binding or valid.

B. THE FOLLOWING SHALL CONSTITUTE EVENTS OF DEFAULT:

1. **Nonpayment.** Failure of Grantor to make any payments in the amount or within the time required by the Note and Section A, paragraph I, of this Trust Deed; or failure of Grantor to make any payment for taxes, insurance premiums, or any other payment necessary to prevent filing of or discharge of any lien within ten (10) days after written notice from Lender of any such nonpayment. No notice by Lender shall be required for this event of default defined herein if during the preceding twelve calendar months Lender has sent notice to Grantor concerning any other nonpayment hereunder.
2. **Breach of Other Covenant.** Failure of Grantor to perform any obligation contained in this Trust Deed. No notice of default shall be required if during the preceding twelve calendar months Lender has already sent a notice to Grantor concerning default in performance of the same obligation.
3. **Misinformation.** Falsity in any material respect of the warranties and covenants of Grantor contained herein or any representation, warranty or information furnished to Lender by Grantor in connection with the Note or this Trust Deed.
4. **Other Obligation.** Failure of Grantor to perform any obligation required by any other instrument evidencing or securing any indebtedness of Grantor to Lender.
5. **Sale or Transfer of Possession.** The sale or transfer of possession of the Trust Property or any part thereof in any manner by Grantor, whether by deed, contract of sale, lease or similar agreement, without the prior written consent of Lender. The execution and delivery by the Grantor of any joint venture agreement, partnership agreement, declaration of trust, option agreement or other instrument whereunder any other person may become entitled, directly or indirectly, to the possession or enjoyment of the Trust Property, or the income or other benefits derived or to be derived therefrom, shall in each case be deemed to be a sale or transfer of Grantor's interest in the Trust Property for the purposes of this paragraph.

C. REMEDIES IN CASE OF DEFAULT:

If an event of default shall occur, Lender or Trustee, as the case may be, may exercise any of the following rights and remedies, in addition to any other remedies which may be available at law, in equity, or otherwise:

1. **Acceleration.** Lender may declare all sums secured by this Trust Deed, including all interest, to be immediately due and payable.
2. **Books and Records.** Lender may examine all books, records and contracts of Grantor pertaining to the Trust Property and of any guarantors and make such memoranda thereof as it may desire.
3. **Receiver.** Lender may have a receiver of the Trust Property appointed. Lender shall be entitled to the appointment of a receiver as a matter of right whether or not the apparent value of the Trust Property exceeds the amount of the indebtedness secured by this Trust Deed. Employment by Trustee or Lender shall not disqualify a person from serving as receiver. Grantor waives all defenses and consents to the appointment of a receiver at Lender's option.
4. **Possession.** Lender may, either through a receiver or as a lender-in-possession, take possession of all or any part of the Trust Property, and Grantor shall peaceably surrender the same.
5. **Rents and Revenues.** Lender may revoke Grantor's right to collect the rents and revenues from the Trust Property, and may, either itself or through a receiver, collect the same. To facilitate collection, Lender may notify Grantor's tenants to pay rent directly to Lender. Lender shall not be deemed to be in possession of the Trust Property solely by reason of exercise of the rights contained in this paragraph. If rents are collected by Lender under this paragraph, Grantor hereby irrevocably designates Lender as Grantor's attorney-in-fact to endorse instruments received in payment of rent, in respect of any part of the Trust Property, in the name of Grantor and to negotiate

such instruments and collect the proceeds thereof.

6. Foreclosure. Lender may obtain a decree foreclosing Grantor's interest in all or any part of the Trust Property.
7. Fixtures and Personal Property. With respect to any fixtures or personal property subject to a security interest in favor of Lender, Lender may exercise any and all of the rights and remedies of a secured party under the Uniform Commercial Code.
8. Abandon Security. Lender may abandon any security afforded by this Trust Deed or any other security instrument by notifying Grantor of Lender's election to do so.
9. Power of Sale. Lender may direct Trustee, and Trustee shall be empowered, to foreclose the Trust Property by advertisement and exercise of the power of sale under applicable law.
10. Sale of Collateral; Bid at Public Sale. In exercising its rights and remedies, Lender shall be free to sell all or any part of the collateral together or separately, or to sell certain portions of its collateral and refrain from selling other portions. Lender shall be entitled to bid at any public sale of all or any portion of its collateral.
11. Cumulative Remedies. Election to pursue one remedy shall not exclude resort to any other remedy, and, unless the context otherwise requires, all remedies under this Trust Deed are cumulative and not exclusive. No delay or omission in exercising any right or remedy shall impair that or any other right or remedy or shall be construed to be a waiver of the default.

D. RECEIVER OR TRUSTEE-IN-POSSESSION:

Upon taking possession of all or any part of the Trust Property, a receiver or Trustee or Lender or Lender's representative may:

1. Management. Use, operate, manage, control and conduct business on the Trust Property and make expenditures for such purposes and for maintenance and improvements as in its judgment are necessary.
2. Rents and Revenues. Collect all rents, revenues, income, issues and profits from the Trust Property and apply such sums to the expenses of use, operation, management, maintenance and improvements.
3. Construction. At its option, complete any construction in progress on the Trust Property, and in that connection pay bills, borrow funds, employ contractors and make any changes in plans and specifications as it deems appropriate.
4. Additional Indebtedness. If the revenues produced by the Trust Property are insufficient to pay expenses, including, without limitation, any disbursements made by Lender or Trustee pursuant to this section, a receiver may borrow, or Lender or Trustee may advance, such sums upon such terms as it deems necessary for the purposes stated in this section, and such sums shall become indebtedness of Grantor to Lender, shall bear interest from the date of disbursement at the rate stated in the Note, shall be payable upon demand, and shall be secured by this Trust Deed.

E. APPLICATION OF PROCEEDS:

All proceeds realized from the exercise of the rights and remedies under Sections C and D of this Trust Deed shall be applied as follows:

1. Costs and Expenses. To pay the costs of exercising such rights and remedies, including the costs of any sale, the costs and expenses of any receiver or lender-in-possession, and the costs and expenses provided for in paragraph XVII of Section A herein.
2. Indebtedness. To pay all other amounts owed by Grantor, payment of which is secured by this Trust Deed.
3. Surplus. The surplus, if any, shall be paid to the clerk of the court in the case of a foreclosure by judicial proceeding, otherwise to the person or persons legally entitled thereto.

IN WITNESS WHEREOF, Grantor has executed this Deed of Trust.

By: Kelly Holcomb
Kelly Holcomb, Grantor

By: Jeff Holcomb
Jeff Holcomb, Grantor

STATE OF OREGON)
) ss.
County of Klamath)

Personally appeared this 4th day of January, 2005, the above named Kelly and Jeff Holcomb who acknowledged the foregoing instrument to be her voluntary act and deed. Before me:

Notary Public for Oregon
My Commission expires: 11/16/2007

Kelly and Jeff Holcomb

Grantor Grantor

State of Oregon
Economic And Community Development Department
Beneficiary

Kristi L. Redd

