

'05 MAR 29 PM 12:18

After recording, return to
(File No. 66445003)

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

Anthony R. Kreitzberg
P.O. Box 749
Salem OR 97308-0749

(No Change)

State of Oregon, County of Klamath
Recorded 03/29/2005 12:18 p m
Vol M05 Pg 20912-24
Linda Smith, County Clerk
Fee \$ 81.00 # of Pgs 13

Trust Deed

THIS Trust Deed, made this 28 day of March, 2005, between Keith E. McClung and Beverly J. McClung, as Grantor, Aspen Title and Escrow, Inc., as Trustee, and Jodi M. Orlando, as Trustee of the Jodi M. Orlando Revocable Trust as Beneficiary,

WITNESSETH:

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

Lot 7, Tract 1306, second addition to North Ridge Estates, in the County of Klamath, State of Oregon.

together with all and singular the tenements, hereditaments and appurtenances and all other rights thereunto belonging or in anyway now or hereafter appertaining and the rents, issues and profits thereof and all fixtures now or hereafter attached to or used in connection with said real estate.

FOR THE PURPOSE OF SECURING PERFORMANCE of each agreement of Grantor herein contained and payment of the sum of Two Hundred and Eighty-Five Thousand and 0/100 Dollars (\$285,000.00), according to the terms of a promissory note of even date herewith, payable to Beneficiary or order and made by Grantor, the final payment of principal and interest hereof, if not sooner paid, to be due and payable one year from the date of this Trust Deed.

This Trust Deed shall be subordinate to the existing Trust Deed securing the loan from Chase Manhattan Mortgage Corporation in the approximate amount of \$254,000.00 as of the date of this Trust Deed.

The date of maturity of the debt secured by this instrument is the date, stated above, on which the final installment of said note becomes due and payable. In the event the within described property, or any part thereof, or any interest therein is sold, agreed to be sold, conveyed, assigned or alienated by Grantor without first having obtained the written consent or approval of Beneficiary, then, at Beneficiary's option, all obligations secured by this instrument, irrespective of the maturity dates expressed therein, or herein, shall become immediately due and payable.

To protect the security of this Trust Deed, Grantor agrees:

1. To protect, preserve and maintain said property in good condition and repair; not to remove or demolish any building or improvement thereon; not to commit or permit any waste of said property.

Jodi Orlando

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2. To complete or restore promptly and in good and workmanlike manner any building or improvement which may be constructed, damaged or destroyed thereon, and pay when due all costs incurred therefor.

3. To comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting said property; if Beneficiary so requests, to join in executing such financing statements pursuant to the Uniform Commercial Code as Beneficiary may require and to pay for filing same in the proper public office or offices, as well as the cost of all lien searches made by filing officers or searching agencies as may be deemed desirable by Beneficiary.

4. To provide and continuously maintain insurance on the buildings now or hereafter erected on the said premises against loss or damage by fire and such other hazards as Beneficiary may from time to time require, in an amount not less than replacement value written in companies acceptable to Beneficiary, with loss payable to the latter; all policies of insurance shall be delivered to Beneficiary as soon as insured; if Grantor shall fail for any reason to procure any such insurance and to deliver said policies to Beneficiary at least fifteen days prior to the expiration of any policy of insurance now or hereafter placed on said buildings, Beneficiary may procure the same at Grantor's expense. The amount collected under any fire or other insurance policy may be applied by Beneficiary upon any indebtedness secured hereby and in such order as Beneficiary may determine, or at option of Beneficiary the entire amount so collected, or any part thereof, may be released to Grantor. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

WARNING

Unless you provide us with evidence of the insurance coverage as required by this Trust Deed, we may purchase insurance at your expense to protect our interest. This insurance may, but need not, also protect your interest. If the collateral becomes damaged, the coverage we purchase may not pay any claim you make or any claim made against you. You may later cancel this coverage by providing evidence that you have obtained property coverage elsewhere.

You are responsible for the cost of any insurance purchased by us. The cost of this insurance may be added to your contract or loan balance. If the cost is added to your contract or loan balance, the interest rate on the underlying Promissory Note will apply to this added amount. The effective date of coverage may be the date your prior coverage lapsed or the date you failed to provide proof of coverage.

The coverage we purchase may be considerably more expensive than insurance you can obtain on your own and may not satisfy any need for property damage coverage or any mandatory liability insurance requirements imposed by applicable law.

5. To keep said premises free from construction liens and to pay all taxes, assessments and other charges that may be levied or assessed upon or against said property before any part of such taxes, assessments and other charges become past due or delinquent and promptly deliver receipts therefor to Beneficiary; should Grantor fail to make payment of any taxes, assessments, insurance premiums, liens or other charges payable by Grantor, either by direct payment or by providing Beneficiary with funds with which to make such payment, Beneficiary may, at its option,

make payment thereof, and the amount so paid, with interest at the rate set forth in the note secured hereby, together with the obligations described in paragraphs 6 and 7 of this Trust Deed, shall be added to and become a part of the debt secured by this Trust Deed, without waiver of any rights arising from breach of any of the covenants hereof and for such payments, with interest as aforesaid, the property hereinbefore described, as well as Grantor, shall be bound to the same extent that they are bound for the payment of the obligation herein described, and all such payments shall be immediately due and payable without notice, and the nonpayment thereof shall, at the option of Beneficiary, render all sums secured by this Trust Deed immediately due and payable and constitute a breach of this Trust Deed.

6. To pay all costs, fees and expenses of this trust including the cost of title search as well as the other costs and expenses of Trustee incurred in connection with or in enforcing this obligation and Trustee's and attorney's fees actually incurred.

7. To appear in and defend any action or proceeding purporting to affect the security rights or powers of Beneficiary or Trustee; and in any suit, action or proceeding in which Beneficiary or Trustee may appear, including any suit for the foreclosure of this Trust Deed, to pay all costs and expenses, including evidence of title and Beneficiary's or Trustee's attorney's fees; the amount of attorney's fees mentioned in this paragraph 7 in all cases shall be fixed by the trial court and in the event of an appeal from any judgment or decree of the trial court, Grantor further agrees to pay such sum as the appellate court shall adjudge reasonable as Beneficiary's or Trustee's attorney's fees on such appeal.

It is mutually agreed that:

8. In the event that any portion or all of said property shall be taken under the right of eminent domain or condemnation, Beneficiary shall have the right, if Beneficiary so elects, to require that all or any portion of the monies payable as compensation for such taking, which are in excess of the amount required to pay all reasonable costs, expenses and attorney's fees necessarily paid or incurred by Grantor in such proceedings, shall be paid to Beneficiary and applied by it first upon any reasonable costs and expenses and attorney's fees, both in the trial and appellate courts, necessarily paid or incurred by Beneficiary in such proceedings, and the balance applied upon the indebtedness secured hereby; and Grantor agrees, at its own expense, to take such actions and execute such instruments as shall be necessary in obtaining such compensation, promptly upon Beneficiary's request.

9. At any time and from time to time upon written request of Beneficiary, payment of Beneficiary fees and presentation of this Trust Deed and the note for endorsement (in case of full reconveyances, for cancellation), without affecting the liability of any person for the payment of the indebtedness, Trustee may (a) consent to the making of any map or plat of said property; (b) join in granting any easement or creating any restriction thereon; (c) join in any subordination or other agreement affecting this Trust Deed or the lien or charge thereof; (d) reconvey, without warranty, all or any part of the property. Grantee in any reconveyance may be described as the "person or persons legally entitled thereto," and the recitals therein of any matters or facts shall be conclusive proof of the truthfulness thereof. Trustee's fees for any of the services mentioned in this paragraph shall be not less than \$5.

10. Upon any default by Grantor hereunder, Beneficiary may at any time without notice, either in person, by agent or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said property or any part thereof, in Trustee's own name sue or otherwise collect the rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees upon any indebtedness secured hereby, and in such order as Beneficiary may determine.

11. The entering upon and taking possession of said property, the collection of such rents, issues and profits, or the proceeds of fire and other insurance policies or compensation or awards for any taking or damage of the property, and the application or release thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

12. Upon default by Grantor in payment of any indebtedness secured hereby or in Grantor's performance of any agreement hereunder, time being of the essence with respect to such payment and/or performance, Beneficiary may declare all sums secured hereby immediately due and payable. In such an event Beneficiary at Beneficiary's election may proceed to foreclose this Trust Deed in equity as a mortgage or direct Trustee to foreclose this Trust Deed by advertisement and sale, or may direct Trustee to pursue any other right or remedy, either at law or in equity, which Beneficiary may have. In the latter event Beneficiary or Trustee shall execute and cause to be recorded written notice of default and election to sell the said described real property to satisfy the obligation secured hereby whereupon 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 86.795.

13. After Trustee has commenced foreclosure by advertisement and sale, and at any time prior to 5 days before the date Trustee conducts the sale, 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 this 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 Beneficiary all costs and expenses actually incurred in enforcing the obligation of this Trust Deed together with Trustee's and attorney's fees not exceeding the amounts provided by law.

14. 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 said sale may be postponed as provided by law. Trustee may sell said 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 Trustee, but including Grantor and Beneficiary, may purchase at the sale.

15. 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 Trustee and a reasonable charge by Trustee's attorney, (2) to the obligation secured by this Trust Deed, (3) to all persons having recorded liens subsequent to the interest of Trustee in this Trust Deed as their interests may appear in the order of their priority and (4) the surplus, if any, to Grantor or to Grantor's successor in interest entitled to such surplus.

16. Beneficiary may from time to time appoint a successor or successors to Trustee named 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 Trustee herein. 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 proper appointment of the successor Trustee.

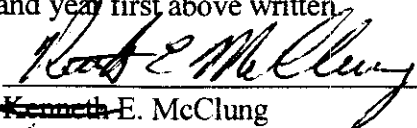
17. Trustee accepts this trust when this Trust Deed, duly executed and acknowledged is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other deed of trust or of any action or proceeding in which Grantor, Beneficiary or Trustee shall be a party unless such action or proceeding is brought by Trustee.

Grantor covenants and agrees to and with Beneficiary and those claiming under Beneficiary, that Grantor is lawfully seized in fee simple of said described real property and has a valid, unencumbered title thereto and that Grantor will warrant and forever defend the same against all persons whomsoever.

This Trust Deed applies to, inures to the benefit of and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, personal representatives, successors and assigns. The term Beneficiary shall mean the holder and owner, including pledgee, of the note secured hereby, whether or not named as Beneficiary herein. In construing this Trust Deed and whenever the context so requires, the masculine gender includes the feminine and the neuter, and the singular number includes the plural.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THE INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 ORS 93.040(1).

Grantor has executed this Trust Deed the day and year first above written.


~~Kenneth~~ E. McClung (Date)
 KOTIK

*(additional signature line and notary blocks
on following page)*

20917

Beverly J. McClung March 28, 05
Beverly J. McClung (Date)

STATE OF OREGON)
) ss.
County of Klamath)

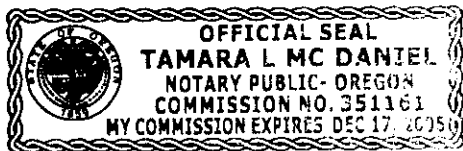
This instrument was acknowledged before me on March 28, 2005 by **Keith E. McClung**.



Tamara L. McDaniel
NOTARY PUBLIC FOR OREGON
My Commission Expires: 12/17/05

STATE OF OREGON)
) ss.
County of Klamath)

This instrument was acknowledged before me on March 28, 2005 by **Beverly J. McClung**.



Tamara L. McDaniel
NOTARY PUBLIC FOR OREGON
My Commission Expires: 12/17/05

TRUST DEED INSTALLMENT NOTE

\$285,000.00

Klamath Falls, Oregon

March ____, 2005

BORROWER:Keith E. McClung and Beverly J. McClung
jointly and severally, herein called "Borrower"

S.S.N.

541-74-0302

S.S.N.

541-74-5758**LENDER:**Jodi M. Orlando, Trustee of the Jodi M. Orlando
Revocable Trust
1344 Wade Circle
Klamath Falls OR 97601

S.S.N.

562-45-2142

1. **Property.** In this note the term "Property" shall mean any and all real, personal, tangible or intangible property and improvements located at Lot 7, Tract 1306, second addition to North Ridge Estates, in the County of Klamath, State of Oregon.

2. **Loan Documents.** In this agreement the term "loan documents" shall mean this Note and the Trust Deed securing it.

3. **Principal Amount.** The principal amount of this purchase money loan is \$285,000.

4. **Promise to Pay.** Borrower promises to pay to the order of Lender, the principal amount of this Installment Note ("Note") pursuant to the following terms:

5. **Interest.** The interest on the balance of the principal amount due shall accrue no interest unless the Note is in default whereupon the balance under the Note shall accrue interest at the rate of twelve percent (12%) per annum from the date of default until cured.

6. **Payment.** The principal amount under the Note shall be paid as follows:

6.1. On or before six months after the date of this Note, Borrower shall pay to Lender the sum of \$100,000;

6.2. On or before one year after the date of this Note, Borrower shall pay to Lender the sum of \$185,000.

7. **Acceleration.** If any of said installments is not so paid when due, time being of the essence of this Note, all principal, interest and additions thereto may become immediately due and collectable at the option of the holder of this Note.

8. Prepayment Privileges. Borrower shall have the privilege of increasing any payment or prepaying the whole consideration at any time without penalty.

9. Trust Deed. To guarantee payment due hereunder, Borrower has granted to Lender a Trust Deed on the Property dated this same date.

10. Collection Account. As soon as practical following execution of this Note, Seller's counsel, Garrett, Hemann, Robertson, Jennings, Comstock & Trethewy, P.C., shall set up an escrow account for the purpose of holding Buyer's payments under this Note. Borrower shall make the payments as required under this Note payable to Garrett, Hemann, Robertson, Jennings, Comstock & Trethewy, P.C. ("Escrow Agent") at the following address:

Garrett, Hemann, Robertson, Jennings, Comstock & Trethewy, P.C.
Attn: Anthony R. Kreitzberg
RE: File No. 6645003-Chase Trust Account
P.O. Box 749
Salem, OR 97308-0749

Escrow Agent shall hold the funds in the escrow account until all payments have been received as required under this Note and then apply the escrow account funds to payoff the Chase Manhattan Mortgage Corporation loan on the Property under Loan No. 1975640546 (the "Chase Loan"). Any proceeds left in the escrow account after payoff of the Chase Loan shall be paid to Lender. Any interest that accrues under the escrow account shall accrue to the benefit of a non-profit organization affiliated with the Oregon State Bar known as IOLTA.

The parties have agreed that the \$10,000.00 down payment on the Property paid by Borrower to Lender may be utilized by Lender to pay expenses and for any other purpose in Lender's sole discretion and will not be held in or subject to the escrow account.

11. Possession. Borrower shall be entitled to possession of the real property described in the trust deed which secures this Note on the date of execution of this Note.

12. Tax-Prorate - Borrower to Pay. Taxes levied against the above-described property for the current tax year shall be prorated as of the date of this Note. Borrower agrees to pay when due all taxes which are thereafter levied against said property and to pay all public, municipal and statutory liens and/or assessments which may be lawfully imposed upon the premises. If the Borrower fails to pay any taxes or charges or any liens or encumbrances above-described, the Lender may, at Lender's option do so, and any payments so made shall be added to and become a part of the principal balance of this Note and shall bear interest at the same rate as provided in this Note without waiver, however, of rights arising to the Lender for breach of this Note.

13. Hazard Insurance - Borrower to Pay. The Borrower agrees to keep the building on the real property described in the trust deed that secures this Note, insured against loss or damage by fire or other casualty in an amount not less than their full insurable value, but in no case less than the original principal balance of this Note, with loss payable to the parties herein as their interests appear at the time of the loss, with priority amount to Lender. The Lender shall be named as an insured and may, at Lender's option, apply the proceeds of any insurance claim to repair and reconstruct the building insured or to the balance due on this Note. The Borrower shall, on demand, furnish to Lender, written proof that the premiums therefore have been paid and are current. All uninsured losses shall be

borne by the Borrower on or after the date the Borrower takes possession for the real property described in the trust deed which secures this Note.

14. Improvements. Borrower agrees that all improvements now on or hereafter placed on the real property which is the subject of the trust deed securing this Note, shall remain a part of the real property and shall not be removed prior to the expiration of this Note without the written consent of Lender. Borrower shall not commit or suffer any waste of the property, nor of any improvements thereon, nor of any improvements hereafter placed thereon, and shall maintain the property and all improvements now or hereafter placed thereon, and alterations thereof in good repair and condition. Borrower shall promptly comply with all laws, ordinances, regulations, and requirements of all governmental authorities applicable to the use or occupancy of the property, and in this connection, promptly make all required repairs, alterations and additions.

15. Liens. Borrower shall pay when due, all municipal and statutory liens hereafter lawfully imposed upon the premises.

16. Risk of Loss. Risk of loss shall transfer from Lender to Borrower on the date of execution of this Note.

17. Consent to Assign. This Note, the trust deed securing it, and the security agreement securing it, are personal to the Lender and the Borrower herein, and the Borrower shall not assign, sell, contract to sell, mortgage, transfer or otherwise alienate the real property described in the trust deed securing this Note, nor the personal property located thereon, nor Borrower's interest in such property, without first obtaining the written consent of the Lender. Any assignment, sale, contract to sell, mortgage, transfer or alienation of any such interest of Borrower without the Lender's prior written consent, shall constitute a material breach of the terms and conditions of this Note, causing an immediate acceleration of the balance due hereon, and the Lender may pursue any or all of the remedies or rights provided by the default provisions contained in this Note, or otherwise provided at law. In the event that Borrower requests such consent, Borrower shall pay all of Lender's reasonable expenses incurred in determining whether consent should be granted, including but not limited to, the cost for: attorney fees, accounting fees, title reports, UCC reports, credit reports, review and verification of credit applications, document preparation, recording fees, and all charges of underlying encumbrance holders, if any. Such consent shall not be unreasonably withheld.

18. Default/Time of Essence. Time of payment and performance is of the essence of this Note, trust deed securing it, and the security interest securing it, and in the event that Borrower shall fail to perform any of the terms of any of such agreements, Lender shall, at Lender's option, subject to requirements of notice provided herein, have the following rights (no one of which shall be waived by exercise of another):

- 18.1. To foreclose the trust deed securing this Note as provided in such trust deed;
- 18.2. To foreclose the security interest securing this Note as provided by law;
- 18.3. To specifically enforce the terms of this Note by suit and equity;
- 18.4. To bring an action for the unpaid and overdue payments without waiving the security of the property; and

18.5. To have a receiver appointed to manage the property as provided in this Note, the trust deed securing this Note, the security agreement securing this Note, and as otherwise provided by law.

Borrower and all endorsers and guarantors of this Note waive presentment for payment, protest, notice of dishonor, and notice before declaring a default. Lender may delay in enforcing its rights or in giving any notices without losing its rights.

19. Default Notice. Borrower shall not be deemed in default for failure to perform any covenant or condition of the trust deed securing this Note nor of this Note other than making payment, until notice of such default has been given by Lender to Borrower and Borrower shall have failed to remedy such default within thirty (30) days after the giving of notice. Notice for this purpose shall be deemed to have been given by the deposit in the mail of a certified letter containing said notice and addressed to Borrower at the address herein described. If Borrower shall fail to make payment as provided in this Note and said failure shall continue after payment becomes due for more than ten (10) days, then Borrower shall be deemed in default and Lender shall not be obligated to give notice to Borrower of a declaration of said default. Provided however that Lender shall provide Borrower with ten (10) days prior written notice of the first late payment by Borrower in any calendar year. The obligation to give such notice shall not be cumulative and shall not affect the obligation of Borrower to pay a late charge as described in this Note. Unless Borrower sends payment by certified mail, Borrower specifically accepts the risk of loss of any payment in the mail, or in the transfer to the Lender or Lender's agent, and it shall be Borrower's duty to verify that payment has actually been received if Borrower desires such verification.

20. "As Is" Clause. Borrower certifies:

20.1. That the loan documents are executed and accepted on the basis of the Borrower's own examination and personal knowledge of such documents and on the basis of Borrower's own opinion of the acceptability of the contents of such documents.

20.2. That the real and/or personal property described in the loan documents are accepted on the basis of Borrower's own examination and personal knowledge of such property and on the basis of Borrower's own opinion of the value of such property.

20.3. That Lender has provided the Borrower with an opportunity to conduct an inspection of the property prior to execution of this Note.

20.4. That Borrower has in fact, thoroughly inspected the personal property, the real property, the improvements on the real property, and the documents above-described.

20.5. That no attempts have been made to influence Borrower's judgment.

20.6. That no representations as to the condition or repair of the property nor as to the construction or repair materials used on the property have been made by Lender or any agent of Lender.

20.7. That no agreement or promise to alter or repair or improve said property has been made by Lender or by any agent of Lender;

20.8. That Borrower takes said property and the improvements thereon subject to all laws, ordinances and administrative rules of the State of Oregon and its subdivisions which may affect such property or the use thereof;

20.9. That Borrower takes all property "as is" in the condition existing at the time of execution of this Note, without any expressed or implied: (i) warranty of merchantability; (ii) warranty of fitness for a particular purpose; (iii) other warranty of any kind.

20.10. That except as specifically provided in this Note, as of the date of this Note, the Borrower specifically releases the lender from any and all claims, demands and causes of suit or action relating to discussions, negotiations, inducements, documents and agreements occurring prior to the date of this Note arising out of any intentional or negligent representations or misrepresentations or other causes.

21. Hazardous Waste. The term "hazardous substance" is used in this Note in its very broadest sense and refers to all materials that, because of their quantity, concentration, physical, chemical, or infectious characteristics, may cause or pose a present potential hazard to human health or the environment when improperly used, treated, stored, disposed of, generated, manufactured, transported, or otherwise handled. Hazardous substance shall include, but is not limited to, any asbestos-containing materials and any or all hazardous or toxic substances, materials or wastes as defined or listed under the Resources Conservation and Recovery Act, 42 USC § 6901-6992, the Toxic Substances Control Act, 15 USC § 2601-2671, the Comprehensive Environmental Response, Compensation and Liability Act, 42 USC § 9601-9675, or any other comparable federal or state statute or any regulation promulgated under any such federal or state statute.

Lender makes no promises, representations or warranties relating to hazardous substances on the property including any promises, representations or warranties relating to the type of materials used for construction or repair of the property and has expressly disclosed to Borrower asbestos contamination on the Property. The Borrower agrees that the Borrower, Borrower's heirs, invitees, guests and trespassers will not discharge, store, produce, or dispose of any hazardous substance on the property, nor allow any discharge, storage, production, or disposal of any hazardous substance on the property. It is understood that the Borrower is strictly and solely liable for any hazardous substance which is found on the Property.

The Borrower agrees to indemnify, defend and hold harmless the Lender, the Lender's employees, agents, successors and assigns from all claims, demands, penalties, damages, expenses, of whatever kind, including attorney fees, which actually or allegedly arise out of, or in any way relate to, any physical characteristic or condition whether known or unknown arising on or related to the Property, including without limit, subsurface conditions and solid and hazardous waste, hazardous substances, on, under or related to the Property or any law or regulation applicable thereto.

Borrower hereby waives, releases, acquits and forever discharges Lender, Lenders heirs, or assigns of any and all claims, actions, causes of action, demands, rights, damages, costs, expenses, or compensation whatsoever, direct or indirect, known or unknown, foreseen or unforeseen, which borrower now has or which may arise in the future on account of or any way growing out of or in connection with any physical characteristic or existing condition including, without limitation, subsurface conditions and solid and hazardous waste, and hazardous substances, on, under or related to the real property or any law or regulation applicable thereto.

22. Attorney Fees. In the event this Note is in default, the Borrower promises and agrees to pay Lender's reasonable collection costs, including, but not limited to, title report costs, attorney and legal assistant fees, even though no suit or action is filed herein. In case litigation is instituted, arising directly or indirectly out of this Note, for the trust deed and security agreement securing it, the losing party shall pay to the prevailing party the costs above described, and the prevailing party's reasonable attorney and legal assistant fees as may be awarded by the Court, including awards on any appeals therefrom.

In the event that Borrower files for protection under the U.S. Bankruptcy Act during the term of this Note, Borrower shall pay to Lender all of Lender's attorney and legal assistant fees and costs incurred to protect Lender's interest in this Note, trust deed and security agreement securing it, and the real and personal property described therein, during the term of the bankruptcy, whether or not Lender is the prevailing party.

23. Entire Agreement - No Modification. The loan documents are the entire, final and complete agreement of the parties pertaining to the property described therein and supersede and replace all written and oral agreement heretofore made or existing by and between the parties or their representatives insofar as such property is concerned. The loan documents may be modified only by written agreement signed by both Lender and Borrower, except that the security interest may be continued by a filing signed by Lender only.

24. Place of Payment. All payments on this Note shall be made payable to Lender and delivered or sent to Lender at the address of the collection agent or, in the absence of a collection agent, the address described in the paragraph entitled "Notices".

25. No Setoff. The obligations of Borrower are absolute, unconditional and irrevocable to pay without setoff or deduction, all payments due strictly and according to the terms of this Note, and no reference to any collateral agreement is intended to give rise to any right of setoff or deduction.

26. Notices. All notices desired to be given with regard to this Note or any document to the security for it, shall be in writing and shall be deemed delivered forty-eight (48) hours after deposit in the United States mail, certified, addressed to the party intended to receive the notice to that party's address as set forth above.

27. Construction. In construing this Note, it is understood that:

27.1. The Lender or Borrower may be more than one person;

27.2. If the context so requires: (a) the singular pronoun shall be taken to mean and include the plural pronoun; (b) the masculine pronoun shall be taken to mean the feminine and the neuter pronoun; and

27.3. All captions used herein are intended solely for the convenience of reference and shall in no way limit any of the provisions of this Note, or any document relating to the security for it.

28. Successor Interest. The covenants, conditions and terms of this Note and all documents relating to the security for it, shall extend to and be binding upon and inure to the benefit of the heirs, administrators, executors and assigns of the parties hereto; provided, however, that nothing contained in this paragraph shall alter the restrictions hereinabove contained relating to assignments.

29. Foreign Investment in Real Property Tax Act. Lender certifies that Lender is not a non-resident alien for purposes of income taxation, and Lender is not subject to withholding of tax under Section 1445 of the Internal Revenue Code. Lender has completed and signed an affidavit complying with Section 1445 as evidence of Lender's exempt status.

30. Attorney Representation. This Note, the trust deed securing it, the security agreement securing it, and the financing statement perfecting the security agreement, have been prepared by Garrett, Hemann, Robertson, Jennings, Comstock & Trethewy, P.C. as attorneys for the Lender. The Borrower acknowledges that Borrower has the right to have this Note, and all documents relating to the security for it, reviewed by an attorney of Borrower's choice and has been advised to do so.

DATED this 28 day of MARCH, 2005.

BORROWER:

Keith E. McClung

3-28-05
(Date)

Beverly J. McClung

3-28-05
(Date)

Additional signature on next page

APPROVED AS TO FORM AND CONTENT:

LENDER:

Jodi Orlando Trustee 3/28/05
Jodi M. Orlando, Trustee of the (Date)
Jodi M. Orlando Revocable Trust