

2008-017026

Klamath County, Oregon

NTC12910-9254

AFTER RECORDING RETURN TO:
Stephen J. Klarquist
Zalutsky, Klarquist & Reinhart, P.C.
215 S.W. Washington Street
Portland, OR 97204



12/31/2008 11:48:21 AM

Fee: \$31.00

TRUST DEED

THIS TRUST DEED is made as of the 30 day of December, 2008, by JAMES CHRISTOPHER MADDEN, whose address is 10712 Kestrel Road, Klamath Falls, OR 97601 ("Grantor"), to STEPHEN J. KLARQUIST, Attorney at Law, having its office at 215 SW Washington Street, Portland, Oregon 97204 ("Trustee"), for the benefit of JAMES C. MADDEN AND CAREY E. MADDEN, TRUSTEES OF THE CHRISTINA MADDEN IRREVOCABLE TRUST, whose address is 10712 Kestrel Road, Klamath Falls, OR 97062 ("Beneficiary").

WHEREAS, Grantor is obligated to Beneficiary for a line of credit up to the amount of \$300,000.00, which obligation is to be evidenced by a Line of Credit and Promissory Note of even date herewith. The obligation, if not sooner paid, is due and payable in full on March 11, 2013. (The Promissory Note, as it may be modified, extended, or replaced from time to time, is referred to herein as the "Note");

NOW, THEREFORE, for valuable consideration, receipt of which is hereby acknowledged, and for the purpose of securing the Obligations described in Section 1.01 below, Grantor hereby irrevocably grants, bargains, sells, conveys, assigns, and transfers to Trustee in trust for the benefit and security of Beneficiary, with power of sale, all of Grantor's right, title, and interest in and to the real property located in Klamath County, State of Oregon, and more particularly described as

LOTS 24A, 25A, 25B, 26A, 26B, 27A, 27B, BLOCK 7, RAILROAD ADDITION TO THE CITY OF KLAMATH FALLS, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon

together with (1) all dwellings and other improvements now or hereafter located thereon, (2) all easements, tenements, hereditaments, and appurtenances relating thereto, (3) all awards for any taking of all or any portion thereof, and (4) all insurance proceeds for any damage thereto (collectively, the "Trust Property").

TO PROTECT THE SECURITY OF THIS TRUST DEED, GRANTOR COVENANTS AND AGREES AS FOLLOWS:

ARTICLE I

Particular Covenants and Warranties of Grantor

1.01 Obligations Secured. This Trust Deed secures the payment of all indebtedness, including but not limited to principal and interest, and the performance of all covenants and obligations of Grantor, under the Note and this Trust Deed, whether such payment and performance is now due or becomes due in the future (collectively, the "Obligations").

1.02 Payment and Performance. Grantor shall pay and perform all of the Obligations when due.

1.03 Property. Grantor warrants that it holds good and merchantable title to the Trust Property, free and clear of all liens, encumbrances, reservations, restrictions, easements, and adverse claims except those of record. Grantor covenants that it shall forever defend Beneficiary's and Trustee's rights hereunder and the priority of this Trust Deed against the adverse claims and demands of all persons.

ARTICLE II

Events of Default; Remedies

2.01 Events of Default. Each of the following shall constitute an Event of Default under this Trust Deed and under each of the other Loan Documents:

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

3/1/11

(1) **Nonpayment.** Failure of Grantor to pay any of the Obligations on or within 15 days after notice and demand for payment of any overdue payment.

(2) **Breach of Other Covenants.** Failure of Grantor to perform or abide by any other covenant included in the Obligations, including without limitation those covenants in the Note or in this Trust Deed.

2.02 Remedies in Case of Default. If an Event of Default shall occur, Beneficiary or Trustee, as the case may be, may exercise any one or more of the following rights and remedies, in addition to any other remedies that may be available by law, in equity, or otherwise:

(1) **Acceleration.** Beneficiary may declare all or any portion of the Obligations immediately due and payable.

(2) **Power of Sale.** Beneficiary may direct Trustee, and Trustee shall be empowered, to foreclose the Trust Property by advertisement and sale under applicable law.

(3) **Foreclosure.** Beneficiary may judicially foreclose this Trust Deed and obtain a judgment foreclosing Grantor's interest in all or any part of the Trust Property.

2.03 Sale. In any sale under this Trust Deed or pursuant to any judgment, the Trust Property, to the extent permitted by law, may be sold as an entirety or in one or more parcels and in such order as Beneficiary may elect. The purchaser at any such sale shall take title to the Trust Property or the part thereof so sold, free and clear of the estate of Grantor, the purchaser being hereby discharged from all liability to see to the application of the purchase money. Any person, including Beneficiary, may purchase at any such sale. Beneficiary is hereby irrevocably appointed Grantor's attorney-in-fact, with power of substitution, to make all appropriate transfers and deliveries of the Trust Property or any portions thereof so sold. Nevertheless, Grantor shall ratify and confirm any such sale or sales by executing and delivering to Beneficiary or to such purchaser or purchasers all such instruments requested by Beneficiary for such purpose.

2.04 Cumulative Remedies. All remedies under this Trust Deed are cumulative. Any election to pursue one remedy shall not preclude the exercise of any other remedy. No delay or omission in exercising any right or remedy shall impair the full exercise of that or any other right or remedy or constitute a waiver of any Event of Default.

2.05 Application of Proceeds. All proceeds from the exercise of the rights and remedies under this Article V shall be applied (1) to costs of exercising such rights and remedies; (2) to the Obligations, in such order as Beneficiary shall determine in its sole discretion; and (3) the surplus, if any, shall be paid to the clerk of the court in the case of a judicial foreclosure proceeding, otherwise to the person or persons legally entitled thereto.

ARTICLE III

General Provisions

3.01 Time is of the Essence. Time is of the essence with respect to all covenants and obligations of Grantor under this Trust Deed.

3.02 Reconveyance by Trustee. At any time on the request of Beneficiary, payment of Trustee's fees, if any, and presentation of this Trust Deed, without affecting the liability of any person for payment of the Obligations, Trustee may reconvey, without warranty, all or any part of the Trust Property. The grantee in any reconveyance may be described as the "person or persons legally entitled thereto," and the recitals therein of any facts shall be conclusive proof of the truthfulness thereof.

3.03 Notice. Except as otherwise provided in this Trust Deed, all notices shall be in writing and may be delivered by hand, or mailed by first-class certified mail, return receipt requested, postage prepaid, and addressed to the appropriate party at its address set forth at the outset of this Trust Deed. Any party may change its address for such notices from time to time by notice to the other parties. Notices given by mail in accordance with this paragraph shall be deemed to have been given upon the date of mailing; notices given by hand shall be deemed to have been given when actually received.

3.04 Substitute Trustee. In the event of dissolution or resignation of Trustee, Beneficiary may substitute one or more trustees to execute the trust hereby created, and the new trustee(s) shall succeed to all the powers and duties of the prior trustee(s).

3.05 Trust Deed Binding on Successors and Assigns. This Trust Deed shall be binding on and inure to the benefit of the heirs, legatees, personal representatives, successors, and assigns of Grantor, Trustee, and Beneficiary.

3.06 Indemnity. Grantor shall, to the fullest extent allowed by law, hold Beneficiary and Trustee and, if either is a corporation or other legal entity, their respective directors, officers, employees, agents, and attorneys harmless from and indemnify them for any and all claims, demands, damages, liabilities, and expenses, including but not limited to attorney fees and court costs, arising out of or in connection with Trustee's or Beneficiary's interests and rights under this Trust Deed.

3.07 Expenses and Attorney Fees. Grantor shall pay all fees and expenses, taxes, assessments, and charges arising out of or in connection with the execution, delivery, and recording of this Trust Deed. If Beneficiary refers any of the Obligations to an attorney for collection or seeks legal advice following a default; if Beneficiary is the prevailing party in any litigation instituted in connection with any of the Obligations; or if Beneficiary or any other person initiates any judicial or nonjudicial action, suit, or proceeding in connection with any of the Obligations or the Trust Property (including but not limited to bankruptcy, eminent domain, or probate proceedings), and an attorney is employed by Beneficiary to appear in any such proceeding or seek relief from a judicial or statutory stay, or otherwise enforce Beneficiary's interests, then in any such event Grantor shall pay reasonable attorney fees, costs, and expenses incurred by Beneficiary in connection with the above mentioned events and any appeals. Such amounts shall be secured by this Trust Deed and, if not paid upon demand, shall bear interest at the rate specified in the Note.

3.08 Applicable Law. This Trust Deed shall be governed by the laws of the state of Oregon.

3.09 Severability. If any provision of this Trust Deed shall be held to be invalid, illegal, or unenforceable, the other provisions of this Trust Deed shall not be affected.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS 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 THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007.

GRANTOR: *James Christopher Madden* by

J. H. G. Osborne as his attorney-in-fact
Jonathan Osborne, as Attorney in Fact for James Christopher Madden

STATE OF OREGON, County of Klamath) ss.

The foregoing instrument was acknowledged before me this 30th day of December, 2008, by Jonathan Osborne, as Attorney in Fact for James Christopher Madden.



Kristi L. Redd
Notary Public for Oregon
My commission expires: 11/16/2011