

2010-000189

Klamath County, Oregon



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01/06/2010 11:32:39 AM

Fee: \$67.00

RECORDING REQUESTED BY,
AND, WHEN RECORDED, MAIL TO:

BANK OF THE WEST
6873 N. West Avenue, Suite 102
Fresno, CA 93711

1ST 1260397

ATTN: Documentation Center (Visalia ABC)

Tax Account # R605553, R605651, R605544, R602798, R604466, R604493, R723, M29472, R604484, M50189, M29481, R604518, R604509, R604545, R604652, R728074, R604705, R711778, M837134, R605250, R605269, R616168, M874380, R616159, and R7600

MODIFICATION OF DEED OF TRUST

THIS AGREEMENT is made as of this 16th day of December, 2009, by and between WINDY RIDGE, LLC and LOST RIVER FARMS, LLC successor in interest to BVDP, an Oregon general partnership (the "Trustor") and BANK OF THE WEST (the "Beneficiary").

WITNESSETH:

WHEREAS, on the 22nd day of September, 2008 the Trustor did make, execute and deliver to Transnation Title Insurance, as Trustee, that certain Deed of Trust recorded November 18, 2008, in Volume 2008, at Page 015561 in the Office of the County Recorder of Klamath County, State of Oregon, securing a certain Credit Agreement dated September 22, 2008 by and between Trustor and the Beneficiary and covering the property described in Exhibit "A" attached hereto; and

WHEREAS, on the 12th day of May, 2009, the Trustor executed that certain Modification of Deed of Trust dated May 12, 2009, recorded July 10, 2009, as Instrument No. 20090009457 in the Office of the County Recorder of Klamath County, State of Oregon; and

WHEREAS, the obligations secured by the Deed of Trust have once again been modified, and Trustor and Beneficiary have agreed to modify the Deed of Trust to reflect that said modifications are secured by the Deed of Trust.

NOW THEREFORE, for valuable consideration, receipt of which is hereby acknowledged, the parties hereto do hereby modify said Deed of Trust as follows:

1. The first paragraph under the heading "FOR THE PURPOSE OF SECURING" is modified to reflect the following:

(a) Payment of an indebtedness in the (i) aggregate principal amount of \$5,550,000.00 as evidenced by a Credit Agreement dated as of December 16, 2009 between WINDY

Deed of Trust
windyridgeModDT.doc

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RIDGE, LLC and BENEFICIARY, (ii) an indebtedness in the aggregate original principal amount of \$3,400,000.00 as evidenced by a Credit Agreement dated as of September 22, 2008 between WINDY RIDGE, LLC and BENEFICIARY, and (iii) all obligations of WINDY RIDGE, LLC under that certain interest rate swap transaction having an original notional amount of \$3,400,000.00 and a trade date of April 13, 2009 between the WINDY RIDGE, LLC and BENEFICIARY, together with all covenants and agreements of WINDY RIDGE, LLC in respect of such transaction now existing or hereafter arising under that certain ISDA Master Agreement (and Schedule thereto) dated April 8, 2009 between WINDY RIDGE, LLC and BENEFICIARY (including, without limitation, any obligation of WINDY RIDGE, LLC to make payments or deliveries to BENEFICIARY upon an Early Termination Date under and as defined in such Agreement) (i, ii, and iii, together, are herein together referred to as the "Note") any and all amendments, modifications, extensions or renewals of the Note (whether evidenced by the Note or otherwise); together with the payment of interest on such indebtedness and the payment of all other sums (with interest as therein provided) according to the terms of the Note (and any and all amendments, modifications, extensions, or renewals thereof);

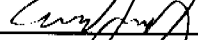
2. It is further agreed that in all other respects not inconsistent herewith, the terms of said Deed of Trust shall remain in full force and effect.

3. This Agreement shall inure to and be binding on the heirs, devisees, successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties have executed this document on the date first hereinabove written.

TRUSTOR:

WINDY RIDGE, LLC

By: 
Name/Title: Arie de Jong, Manager/Member

By: 
Name/Title: Jenneke de Jong, Manager/Member

LOST RIVER FARMS, LLC

By: 
Name/Title: Arie de Jong, Manager/Member

By: 
Name/Title: Jenneke de Jong, Manager/Member

BENEFICIARY:

BANK OF THE WEST

By: 
Name/Title: Chad Patterson, Vice President

STATE OF Oregon }
COUNTY OF Klamath }

On January 6, 2010, before me, a notary public within and for said County,
personally appeared Arne de Jong & Jenneke de Jong *, to me known to be the person(s)
described in and who executed the foregoing instrument and acknowledged that
_____ executed the same as free act and deed.

* is member/managers for
Windy Ridge LLC & Lost River
Farm LLC

Brenda Rodriguez
Notary Public

My commission expires: 9-19-2013

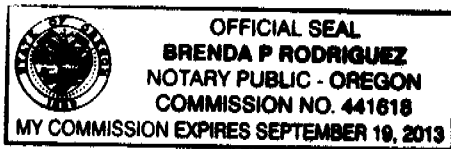


EXHIBIT "A"

DESCRIPTION OF REAL PROPERTY

All that real property located in the County of Klamath, State of Oregon, legally described as follows:

All that real property located in the County or Counties of Klamath, State of Oregon, legally described as follows:

PARCEL 1:

ALL THOSE LANDS SITUATED IN SECTIONS 15 AND 22, TOWNSHIP 39 SOUTH, RANGE 11 EAST OF THE WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

SECTION 22: NW 1/4, NE 1/4 SW 1/4, EXCEPTING THEREFROM A TRACT OF LAND CONTAINING 20 ACRES, MORE OR LESS, SITUATED IN THE W 1/2 OF SECTION 22, DESCRIBED AS FOLLOWS: THAT PORTION OF THE EAST 740.00 FEET OF THE NE 1/4 SW 1/4 OF SAID SECTION 22 LYING SOUTH AND SOUTHWESTERLY OF WEST LANGELL VALLEY ROAD AND THAT PORTION OF THE EAST 740.00 FEET OF THE SE 1/4 NW 1/4 OF SAID SECTION 22 LYING SOUTH AND SOUTHWESTERLY OF WEST LANGELL VALLEY ROAD.

SECTION 15: S 1/2 SW 1/4

ALSO: THAT TRACT OF LAND DESCRIBED AS FOLLOWS: BEGINNING AT A 1/2 INCH IRON PIN FROM WHICH THE NORTHWEST CORNER OF SAID SECTION 15 BEARS N. 01°44'03" W. 3681.45 FEET; THENCE S. 78°02'07" E. 174.45 FEET TO A 1/2 INCH IRON PIN; THENCE S. 89°52'45" E. 231.30 FEET TO A 1/2 INCH IRON PIN; THENCE S. 89°20'52" E. 801.00 FEET TO A 1/2 INCH IRON PIN; THENCE S. 15°16'07" E. 217.00 FEET TO A 1/2 INCH IRON PIN; THENCE CONTINUING S. 15°16'07" E. 20 FEET, MORE OR LESS, TO THE SOUTH LINE OF THE N 1/2 SW 1/4 OF SAID SECTION 15; THENCE WESTERLY ALONG SAID LINE TO THE SOUTHWEST CORNER OF THE NW 1/4 SW 1/4 OF SAID SECTION 15; THENCE NORTHERLY ALONG THE WEST LINE OF SAID SECTION 15 TO A POINT THAT BEARS S. 81°00'05" W. FROM THE POINT OF BEGINNING; THENCE N. 81°00'05" E. TO A 1/2 INCH IRON PIN SET IN AN EXISTING NORTH-SOUTH FENCE LINE; THENCE CONTINUING N. 81°00'05" E. 76.21 FEET TO THE POINT OF BEGINNING, MORE OR LESS, WITH BEARINGS BASED ON BOWNE ADDITION TO THE TOWN OF BONANZA.

EXHIBIT "A"

DESCRIPTION OF REAL PROPERTY

All that real property located in the County of Klamath, State of Oregon, legally described as follows:

PARCEL 2:

TOWNSHIP 39 SOUTH, RANGE 11 EAST OF THE WILLAMETTE MERIDIAN

SECTION 16: THE SW 1/4 AND ALL OF SE 1/4 OF NW 1/4 LYING SOUTH OF LOST RIVER, EXCEPTING THEREFROM, THE WESTERLY 40 FEET OF SW 1/4 SW 1/4 LYING SOUTHERLY OF EXISTING COUNTY ROAD.

THE S 1/2 SE 1/4 LESS THAT PORTION HERETOFORE DEEDED TO KLAMATH COUNTY, OREGON, FOR ROAD PURPOSES.

SECTION 17: THAT PART OF THE S 1/2 NE 1/4, NE 1/4 SW 1/4, W 1/2 SW 1/4 LYING SOUTH AND EASTERLY OF LOST RIVER.

THE SE 1/4 SW 1/4 AND SE 1/4 LYING NORTH OF HARPOLD ROAD

SECTION 20: THAT PORTION OF THE NE 1/4 LYING NORTH OF HARPOLD ROAD.

THE N 1/2 NW 1/4 AND SW 1/4 NW 1/4 LYING EAST OF LOST RIVER.

SECTION 21: THE N 1/2 NE 1/4 AND SE 1/4 NE 1/4

PARCEL 3:

A FRACTION OF SECTION 9 AND 16, TOWNSHIP 39 SOUTH, RANGE 11, EAST OF THE WILLAMETTE MERIDIAN, INCLUDED WITHIN THE FOLLOWING DESCRIBED PARCELS:

ALL THOSE PORTIONS OF VACATED BOWNE ADDITION TO THE TOWN OF BONANZA DESCRIBED AS FOLLOWS:

THE WEST 12 1/2 FEET OF LOTS 2 AND 23 AND ALL OF LOTS 3 TO 22 INCLUSIVE IN BLOCK 48;
LOTS 1 TO 18 INCLUSIVE AND LOTS 23 AND 24 IN BLOCK 49;
LOTS 13 TO 24 INCLUSIVE IN BLOCK 50;
ALL OF BLOCK 67;
LOTS 3 TO 24 INCLUSIVE IN BLOCK 68;
LOTS 3 TO 22 INCLUSIVE AND THE WEST 4.5 FEET OF LOT 23 IN BLOCK 69;
THE WEST 4.5 FEET OF LOTS 2 AND 23 AND LOTS 3 TO 22 INCLUSIVE IN BLOCK 76;
ALL OF BLOCK 77;
ALL OF BLOCK 78;

EXHIBIT "A"

DESCRIPTION OF REAL PROPERTY

All that real property located in the County of Klamath, State of Oregon, legally described as follows:

ALSO THOSE PORTIONS OF STREETS AND ALLEYS WHICH ATTACH TO SAID LOTS AND BLOCKS BY OPERATION OF LAW BY ORDER OF VACATION SHOWN IN VOLUME 191, PAGE 421, DEED RECORDS OF KLAMATH COUNTY, OREGON, INCLUDING ALL OF VACATED PARK AVE. BETWEEN THE CENTERLINE OF UNION ST. AND THE CENTERLINE OF PRICE ST.

SAVING AND EXCEPTING FROM THE ABOVE THOSE PORTIONS OF BLOCKS 48 AND 49 AND VACATED SEATTLE AVE. LYING NORTHERLY OF THE FOLLOWING DESCRIBED LINE: BEGINNING AT A POINT IN THE ALLEY IN BLOCK 50 WHICH BEARS SOUTH 0°08' EAST 141.56 FEET FROM THE NORTHWEST CORNER OF LOT 6 IN SAID BLOCK 50; THENCE SOUTH 89°44'50" EAST, 326.97 FEET; THENCE SOUTH 76°54'14" EAST, 518.98 FEET TO A POINT ON THE EAST LINE OF THE W 1/2 OF LOT 23, SAID BLOCK 48.

ALSO SAVING AND EXCEPTING THE NORTH 30 FEET OF LOTS 3 AND 4 IN BLOCK 69 OF SAID VACATED BOWNE ADDITION.

ALSO: BEGINNING AT THE CORNER COMMON TO SECTIONS 9, 10, 15 AND 16, TOWNSHIP 39 SOUTH, RANGE 11, EAST OF THE WILLAMETTE MERIDIAN, WHICH POINT IS ON THE CENTERLINE OF CARROLL AVENUE AS PLATTED ON BOWNE ADDITION TO THE TOWN OF BONANZA, THENCE NORTH ALONG SAID CENTERLINE 330 FEET, MORE OR LESS, TO ITS INTERSECTION WITH THE CENTERLINE OF UNION ST.; THENCE WEST ALONG THE CENTERLINE OF UNION ST. 1110 FEET, MORE OR LESS, TO THE WEST LINE OF PARK AVE., THENCE SOUTH ALONG THE WEST LINE OF PARK AVE., AND SAID WEST LINE EXTENDED, 710 FEET, MORE OR LESS, TO THE CENTER OF LOST RIVER; THENCE NORTHEASTERLY AND EASTERLY ALONG THE CENTER OF LOST RIVER TO THE EAST LINE OF SAID SECTION 16; THENCE NORTH ALONG SAID SECTION LINE A DISTANCE OF 250 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

SAVING AND EXCEPTING THE EAST 45 FEET OF SAID PARCEL HERETOFORE CONVEYED TO KLAMATH COUNTY BY DEED RECORDED NOVEMBER 28, 1947 IN VOLUME 214, PAGE 247, DEED RECORDS OF KLAMATH COUNTY, OREGON, FOR ROAD PURPOSES.

ALL THAT PORTION OF THE NE 1/4 OF SECTION 16 LYING SOUTHERLY OF THE CENTER OF LOST RIVER; THE N 1/2 SE 1/4 OF SECTION 16, LESS PORTION DEEDED FOR ROAD DESCRIBED IN VOLUME 74, PAGE 71, DEED RECORDS OF KLAMATH COUNTY, OREGON, ALL IN TOWNSHIP 39 SOUTH, RANGE 11, EAST OF THE WILLAMETTE MERIDIAN.

EXHIBIT "A"

DESCRIPTION OF REAL PROPERTY

All that real property located in the County of Klamath, State of Oregon, legally described as follows:

PARCEL 4:

LOTS 19, 20, 21, AND 22 IN BLOCK 49 OF VACATED BOWNE ADDITION TO THE TOWN OF BONANZA. ALSO THOSE PORTIONS OF THE STREETS AND ALLEYS WHICH ATTACH TO THE AFORESAID LOTS BY OPERATION OF LAW THROUGH THE ORDER OF VACATION SHOWN IN BOOK 191 PAGE 421, DEED RECORDS OF KLAMATH COUNTY, OREGON.

PARCEL 5:

LOTS 1 AND 2 IN BLOCK 68 OF VACATED BOWNE ADDITION TO THE TOWN OF BONANZA. ALSO THOSE PORTIONS OF THE STREETS AND ALLEYS WHICH ATTACH TO THE AFORESAID LOTS BY OPERATION OF LAW THROUGH THE ORDER OF VACATION SHOWN IN BOOK 191 PAGE 421, DEED RECORDS OF KLAMATH COUNTY, OREGON.

PARCEL 6:

THE SE 1/4, S 1/2 NE 1/4, SE 1/4 SW 1/4 SECTION 14, TOWNSHIP 39 SOUTH, RANGE 11 1/2 EAST OF THE WILLAMETTE MERIDIAN, IN THE COUNTY OF KLAMATH, STATE OF OREGON.

PARCEL 7:

ALL OF SECTION 13, TOWNSHIP 39 SOUTH, RANGE 11 1/2 EAST OF THE WILLAMETTE MERIDIAN, IN THE COUNTY OF KLAMATH, STATE OF OREGON, EXCEPT THE NW 1/4 NW 1/4.

Tax Parcel Number: R605553 and R605651 and R605544 and R602798 and R604457 and R604466 and R604493 and R723 and M29472 and R891685 and R604484 and M50189 and M29481 and R604518 and R604509 and R604545 and R891686 and R604652 and R728074 and R604705 and R711778 and M837134 and R605250 and R605269 and R616168 and M874380 and R616159 and R7600