

2010-002946

Klamath County, Oregon

AFTER RECORDING RETURN TO:

Johnson & Lechman-Su PC
1200 Weatherly Building
516 SE Morrison St.
Portland, Oregon 97214
Attention: Bradley C. Lechman-Su



00080837201000029460060065

03/05/2010 08:25:34 AM

Fee: \$62.00

TRUST DEED

This TRUST DEED, dated this 17 day of FEB., 2010, is granted by Ted and Bonnie Duell ("Grantor"), to Bradley C. Lechman-Su, having his office at 516 SE Morrison, Suite 1200, Portland, OR 97214 ("Trustee"), for the benefit of Stefanie Riley ("Beneficiary").

WITNESSETH:

1. **Grant.** Grantor irrevocably grants, bargains, sells and conveys to Trustee, in trust, with power of sale, the Property in Klamath County, Oregon, described as:

Lot 11 in TRACT 1344, SEVENTH ADDITION TO NORTH
HILLS – PHASE 1, according to the official plat thereof on
file in the Office of the County Clerk of Klamath, Oregon.

together with all hereditaments and appurtenances and all other rights thereunto belonging or in any way now or hereafter appertaining, and the rents, issues and profits thereof, and all fixtures now or hereafter attached to or used in connection with the Property.

2. **Obligations Secured.** Grantor grants the Property as stated above for the purpose of securing performance of each agreement of Grantor herein contained and payment of the principal sum of \$30,000 according to the specific terms of the Consent Judgment of February 17, 2010 date herewith, payable to Beneficiary or order and made by Grantor, the final payment of principal and interest, if applicable, if not sooner paid, to be due and payable according to the terms of the Consent Judgment.

The date of maturity of the debt secured by this instrument is the date, stated above, on which the final installment of the Consent Judgment becomes due and payable.

3. **Obligations of Grantor.** To protect the security of this trust deed, Grantor agrees:

(a) Grantor shall protect, preserve and maintain the Property in good condition and repair, not to remove or demolish any building or improvement thereon; and not to commit or permit any waste of the Property.

(b) Grantor shall complete or restore promptly and in good and habitable condition any building or improvement which may be constructed, damaged or destroyed upon the Property, and pay when due all costs connected with such restoration or repair.

(c) Grantor shall comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting the 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 the 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.

(d) Grantor shall provide and continuously maintain insurance on the buildings now or hereafter erected on the Property against loss or damage by fire and other hazards, as the Beneficiary may from time to time require, in an amount not less than \$30,000. If policy coverage is changed in any manner, Grantor must provide notice to Beneficiary at the address designated for payments in the consent judgment. Beneficiary shall be named as an additional insured on any and all such policies, and Grantor shall provide Beneficiary with certificates of insurance. If the Grantor fails for any reason to procure any such insurance and to deliver appropriate evidence of insurance to the Beneficiary at least fifteen days prior to the expiration of any policy of insurance now or hereafter placed on the 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 to the amount of any indebtedness secured by this Trust Deed 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.

(e) Grantor agrees to keep the Property free from construction liens and to pay all taxes, assessments and other charges that may be levied or assessed upon or against the Property before any part of such taxes, assessments and other charges becomes past due or delinquent. Should the 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 Consent Judgment, shall be added to and become a part of the debt secured by this Trust Deed, and Grantor shall be bound to the same extent for such payments as Grantor is bound for the payment of any other obligation secured by this Trust Deed.

(f) Grantor shall 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 the Beneficiary or Trustee may appear, including any suit for the foreclosure of this deed or any suit or action related to this instrument, including but not limited to its validity and/or enforceability, to pay all costs and expenses, including evidence of title and the Beneficiary's or Trustee's reasonable attorney fees. The amount of attorney fees mentioned in this paragraph 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 fees on such appeal.

4. **Condemnation.** In the event that any portion or all of the Property is taken under the right of eminent domain or condemnation, Beneficiary shall have the right 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 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 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 by this Trust Deed. Grantor agrees, at his own expense, to take such actions and execute such instruments as shall be necessary in obtaining such compensation promptly upon Beneficiary's request.

5. **Actions of Trustee.** At any time, and from time to time upon written request of Beneficiary, payment of its fees and presentation of this Trust Deed and the Consent Judgment for endorsement (in case of full reconveyances, for cancellation), Trustee may (i) consent to the making of any map or plat of the Property; (ii) join in granting any easement or creating any restriction thereon; (iii) join in any subordination or other agreement affecting this Trust Deed or the lien or charge thereof; or (iv) reconvey, without warranty, all or any part of the Property. The 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 fees for any of the services mentioned in this paragraph shall be not less than \$5.

6. **Default.**

(a) **Beneficiary Remedies.** 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 the Property or any part thereof, in its 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 fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine.

(b) **Retaking.** The entering upon and taking possession of the 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.

(c) **Acceleration; Foreclosure Procedures.** 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 event, 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 Trustee to pursue any other right or remedy, either at law or in equity, which Beneficiary may have. In the event Beneficiary elects to foreclose by advertisement and sale, Beneficiary or 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 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.

(d) Right to Cure. After Trustee has commenced foreclosure by advertisement and sale, and at any time prior to five 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 and reasonable attorney fees not exceeding the amounts provided by law.

(e) Foreclosure Sale. If cure is not effected as provided in Section 6(d) above, the sale of the Property 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 provided by law. 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, 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.

(f) Application of Proceeds. When Trustee sells pursuant to Section 6(e) above, 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) 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 any successor in interest entitled to such surplus.

7. **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 proper appointment of the successor Trustee.

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.

8. **Warranty of Grantor.** Grantor warrants to Beneficiary that Grantor is lawfully seized in fee simple of the Property and has a valid, unencumbered title thereto, except as may be set forth in any addendum or exhibit attached hereto, and that Grantor will warrant and forever defend the same against all persons whomsoever.

9. **Statutory Warning Regarding Use.** BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 197.352. 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 APPROVED USES, 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 197.352.

10. **Statutory Warning Regarding Loans.** The following disclosure is made pursuant to Oregon law (ORS 41.580): "Under Oregon law, most agreements, promises and commitments made by us concerning loans and other credit extensions which are not for personal, family or household purposes or secured solely by the borrower's residence must be in writing, express consideration and be signed by us to be enforceable."

11. **Counterparts.** This Trust Deed may be executed in two or more counterparts, each of which will be considered an original, but all of which together will constitute the same instrument.

12. **Governing Law.** This Trust Deed shall be governed by the laws of the state of Oregon, without regard to principles of conflict of law.

13. **Successors.** 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 Consent Judgment secured hereby, whether or not named as a Beneficiary herein.

14. **Construction.** In construing this Trust Deed, it is understood that the Grantor, Trustee and/or Beneficiary may each be more than one person; that if the context so requires, the singular shall be taken to mean and include the plural, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals. Any headings contained herein are solely for the sake of convenience and shall not affect the meaning

of any substantive provision of this Trust Deed.

IN WITNESS WHEREOF, the Grantor has executed this instrument the day and year first written above.


GRANTOR:



Ted Duell


STATE OF OREGON)
County of Klamath) ss.

The foregoing instrument was acknowledged before me this 17th day of February, 2010 by Ted Duell, the Grantor of this Trust Deed.



Notary Public for Oregon

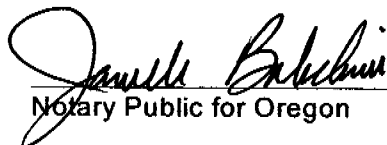




Bonnie Duell

STATE OF OREGON)
County of Klamath) ss.

The foregoing instrument was acknowledged before me this 17th day of February, 2010 by Bonnie Duell, the Grantor of this Trust Deed.



Notary Public for Oregon

