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2010-004796

Klamath County, Oregon



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04/21/2010 03:06:27 PM

Fee: \$77.00

WHEN RECORDED MAIL TO:  
Oregon Housing & Community Services Department  
725 Summer St NE, Suite B  
Salem, Oregon 97301  
Attn: NSP Program

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**DEED OF TRUST**

THIS DEED OF TRUST (herein "Deed of Trust") is made this 16<sup>th</sup> day of **April 2010**, by Michael D. <sup>Dean</sup>Thompson, as grantor (herein "Borrower" or "Grantor"), to Fidelity National Title Company of Oregon as trustee (herein "Trustee"), for the benefit of the State of Oregon, acting by and through its:

Oregon Housing & Community Services Department  
725 Summer Street NE, Suite B  
Salem, OR 97301

as beneficiary (herein "Lender" or "Beneficiary").

BORROWER, in consideration of the indebtedness herein recited and the trust herein created, irrevocably grants and conveys to Trustee, in trust, with power of sale, the following described property located in the County of Klamath, State of Oregon which has the address of 5414 Blue Heron Drive, Bonanza OR 97623 (herein "Property Address"), and whose legal description is:

Lot 32 in Block 49 of KLAMATH FALLS FOREST ESTATES HIGHWAY 66 UNIT,  
PLAT NO. 2, according to the official plat thereof on file in the office of the  
County Clerk of Klamath County, Oregon.

TOGETHER with all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances and rents (subject however to the rights and authorities given herein to Lender to collect and apply such rents), all of which shall be deemed to be and remain a part of the property covered by this Deed of Trust; and all of the foregoing, together with said property, are hereinafter referred to as the "Property";

TO SECURE to Lender the repayment of the indebtedness evidenced by Borrower's Promissory Note dated April 16, 2010 in the principal sum of Thirty-Four Thousand Three Hundred Forty-Two Dollars (U.S. \$34,319.00) ("Loan") and extensions and renewals thereof (herein "Note"); the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Deed of Trust; and the performance of the covenants and agreements of Borrower herein contained. The terms of the Note are incorporated herein by reference and loan number **NSP#10-021**.

**1. Payment of Indebtedness and Other Obligations.** Borrower shall promptly pay when due the indebtedness evidenced by the Note, together with other charges and fees, as provided herein and in the Note.

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**2. Property.** Borrower covenants that Borrower holds good and merchantable title to the Property, is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Property, and that the Property is unencumbered, except for encumbrances of record. Borrower covenants that Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to encumbrances of record.

**3. Representations, Warranties and Covenants.** As a condition to the Loan secured by this Trust Deed and evidenced by the Note, Borrower makes the following representations of fact and intent to the Beneficiary as of the date of the Note and this Deed of Trust and covenants as follows:

(A) Borrower's combined annualized household income (current monthly gross income of all persons residing at the Property multiplied by 12) is no greater than 120% of the area median income as defined by the Program and by the U.S. Department of Housing and Urban Development ("HUD"), adjusted by household size and county;

(B) Borrower will own and occupy the Property as her/his principal residence for the life of this Loan.

(C) Borrower agrees to not rent the Property, even on a temporary basis; and

(D) Borrower intends to or has used all the Loan proceeds for the purchase and/or rehabilitation of the Property.

(E) Borrower shall execute, acknowledge, and deliver, from time to time, such further instruments as Beneficiary or Trustee may require to accomplish the purposes of this Trust Deed.

(F) Borrower represents, warrants, and covenants that the Property is currently in material compliance with, and will at all times be maintained in material compliance with, all applicable laws, and all covenants, conditions, easements, and restrictions affecting the Property.

(G) Borrower shall act to ensure compliance with applicable Environmental Law.

(1) For the purposes of this subsection, "Environmental Law" means any federal, state, or local law or regulation now or hereafter at any time pertaining to Hazardous Substances or environmental conditions. For purposes of this section, "Hazardous Substance" includes, without limitation, any substance that is or becomes classified as hazardous, dangerous, or toxic under any federal, state, or local law or regulation.

(2) Borrower will not use, generate, store, release, discharge, or dispose of on, under, or about the Property or the groundwater thereof any Hazardous Substance and will not permit any other person to do so, except for storage and use of such Hazardous Substances (and in such quantities) as may commonly be used for household purposes, provided such substances are sorted and used in compliance with all Environmental Laws. Borrower will keep and maintain the Property in compliance with all Environmental Laws.

(3) Beneficiary shall have the right to participate in any legal proceeding initiated with respect to the Property in connection with any Environmental Laws and have its attorney fees paid by Borrower. If, at any time, Beneficiary has reason to believe that any violation of this subsection has occurred or is threatened, Beneficiary may require Borrower to obtain or may itself obtain, at Borrower's expense, an environmental assessment by a qualified environmental consultant.

Borrower shall promptly provide to Beneficiary a complete copy of any environmental assessment obtained by Borrower.

(4) If any investigation, monitoring, containment, cleanup, or other remedial work of any kind is required on the Property under any applicable Environmental Law or by any governmental agency or person in connection with a release of a Hazardous Substance, Borrower shall promptly complete all such work at Borrower's expense.

(5) All representations, warranties, and covenants in this subsection shall survive the satisfaction of all obligations under this Deed of Trust, the reconveyance of the Property, or the foreclosure of this Deed of Trust.

(6) Borrower shall not permit the Property or any part thereof to be removed, demolished, or materially altered without Beneficiary's prior written consent. Borrower shall maintain the Property, and every portion thereof, in good repair and condition, except for reasonable wear and tear, and shall at Beneficiary's election restore, replace, or rebuild the Property or any part thereof now or hereafter damaged or destroyed by any casualty (whether or not insured against or insurable) or affected by any condemnation. Borrower shall not commit or suffer any waste or strip of the Property.

(H) Borrower shall not initiate or consent to any rezoning of the Property or any change in any covenant or other public or private restrictions limiting or defining the uses that may be made of the Property without the prior written consent of Beneficiary.

**4. Application of Payments.** Unless applicable law provides otherwise, all payments of amounts payable to Lender pursuant to the Note and Section 1 hereof shall be applied by Lender first to interest and other charges payable on the Note, and then to the principal of the Note or in such other order as the Lender may decide at its own discretion.

**5. Prior Mortgages and Deeds of Trust; Charges; Liens.** Borrower shall perform all of Borrower's obligations under any mortgage, deed of trust or other security agreement with a lien which has priority over this Deed of Trust, including Borrower's covenants to make payments when due. Borrower shall pay or cause to be paid all taxes, assessments and other charges, fines and impositions attributable to the Property which may attain a priority over this Deed of Trust.

**6. Hazard Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property reasonably insured against lost by fire, hazards included within the term "extended coverage", and such other hazards as Lender may require. All insurance policies and renewals thereof shall be in a form acceptable to Lender and shall include a standard mortgage clause in favor of and in a form acceptable to Lender. In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Subject to the rights of the First Mortgagee, each insurance company concerned is hereby authorized and directed to make payment for such loss directly to Lender, instead of to Borrower and to Lender jointly. All or any part of the insurance proceeds may be applied by Lender, at its option, either (a) to the reduction of the indebtedness under the Note and this Deed of Trust, or (b) to the restoration or repair of the damaged Property.

#### **WARNING**

UNLESS YOU (THE BORROWER) PROVIDE US (LENDER) WITH EVIDENCE OF THE INSURANCE COVERAGE AS REQUIRED BY THIS AGREEMENT, WE MAY PURCHASE INSURANCE AT YOUR EXPENSE TO PROTECT OUR INTEREST. THIS INSURANCE MAY, BUT NEED NOT, ALSO PROTECT YOUR INTEREST. IF THE COLLATERAL (YOUR PROPERTY) 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 LOAN BALANCE. IF THE COST IS ADDED TO YOUR LOAN BALANCE, THE INTEREST RATE ON THE UNDERLYING LOAN 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 COVERED OR ANY MANDATORY LIABILITY INSURANCE REQUIREMENTS IMPOSED BY APPLICABLE LAW.

**7. Protection of Lender's Security.** If Borrower fails to perform the covenants and agreements contained in this Deed of Trust, or if any action or proceeding is commenced which materially affects Lender's interest in the Property, then Lender, at Lender's option, may make such appearances, disburse such sums, including reasonable attorneys' fees, and take such action as is necessary to protect Lender's interest. Any amounts disbursed by Lender pursuant to this paragraph, together with interest thereon which shall accrue at the Note rate from the date of payment, shall become additional indebtedness of Borrower secured by this Deed of Trust. Unless Borrower and Lender agree to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower requesting payment thereof. Nothing contained in this paragraph shall require Lender to incur any expenses or take any action hereunder.

**8. Inspection.** Lender may make or cause to be made reasonable entries upon and inspections of the Property, provided that Lender shall give Borrower notice prior to any such inspection specifying reasonable cause therefore related to Lender's interest in the Property.

**9. Condemnation:** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or part hereof, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender, subject to the terms of any mortgage, deed of trust or other security agreement which has priority over this Deed of Trust.

**10. Borrower Not Released; Forbearance by Lender Not a Waiver.** Extension of the time for payment of the sums secured by this Deed of Trust granted by Lender to any successor in interest of Borrower shall not operate to release, in any manner, the liability of Borrower and Borrower's successors in interest. Lender shall not be required to commence proceedings by this Deed of Trust by reason of any demand made by the Borrower and Borrower's successors in interest. Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy.

**11. Rehabilitation Loan Agreement.** Borrower shall fulfill all of Borrower's obligations under any home rehabilitation, improvement, repair, or other loan agreement which Borrower enters into with Lender. Lender, at Lender's option, may require Borrower to execute and deliver to Lender, in a form acceptable to Lender, an assignment of any rights, claims or defenses which Borrower may have against parties who supply labor, materials or services in connection with improvements made to the Property.

**12. Transfer of the Property.** If all or any part of the Property or any interest in it is sold, assigned, refinanced, transferred or otherwise conveyed without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by this Deed of Trust.

**13. Events of Default:** The following shall constitute Events of Default:

- (a) If Borrower defaults under the Note.
- (b) If Borrower causes or allows the unauthorized sale, transfer, assignment or refinancing, or attempts to sell, transfer, assign or refinance, any interest in the Property without prior written authorization from Lender.
- (c) If Borrower fails to occupy the Property as Borrower's principal residence as required herein.
- (d) If Borrower rents or leases the Property in its entirety even on a temporary basis.
- (e) If Borrower uses the Property, or allows anyone else to use the Property, in a way that is not permitted under this Deed of Trust.
- (f) If Borrower fails to maintain the Property as required in this Deed of Trust.
- (g) If the Property is taken by execution of a judgment or any other process of law, or if Borrower becomes unable, or admits in writing that it is unable, to pay debts as they mature, or if Borrower files or has filed against it a voluntary or involuntary petition in bankruptcy, or if Borrower makes a general assignment for the benefit of creditors, or if Borrower is adjudicated bankrupt or insolvent.
- (h) Any representation, warranty, or information furnished by or on behalf of Borrower to Lender in or in connection with the Loan or any audits thereof is deemed false, incomplete or misleading in any material respect thereof.
- (i) If Borrower is in default beyond the applicable grace period on any other obligation owed by Borrower to any third party, if such obligation is secured by all or any portion of the Property.
- (j) If Borrower fails to timely perform in any material way any provision of this Deed of Trust, other than those listed in subsections (a) through (i) above. In such case, except as provided above, Lender shall, prior to acceleration, give notice to Borrower as provided in this Deed of Trust specifying:
  - (1) The breach;
  - (2) The action required to cure such breach;
  - (3) A date, not less than 10 days from the date the notice is mailed to Borrower, by which such breach must be cured; and

(4) That failure to cure such breach on or before the date specified in the notice may result in acceleration of the sums secured by this Deed of Trust and sale of the Property. This notice shall further inform Borrower of the right to reinstate after acceleration and the right to bring a court action to assert the non-existence of a default or any other defense of Borrower to acceleration and sale. If the breach is not cured on or before the date specified in the notice, Lender, at Lender's option, shall have the right to pursue any of the remedies listed in Section 14 below without further demand.

**14. Remedies on Default:** Lender has the right to exercise the following remedies upon any event of Default:

- (a) Declare all the amounts secured under this Deed of Trust immediately due and payable.
- (b) Assign its interest to the Trustee who shall have the right to foreclose by notice and sale, or foreclose by judicial foreclosure itself, as the law allows.
- (c) If Lender forecloses by judicial foreclosure, it will be entitled to a judgment that requires Borrower to pay any amount that Borrower owes according to this Deed of Trust.
- (d) If Borrower remains in possession of the Property after Lender is entitled to possess it, or after it has been sold, then Borrower will become a tenant at will and will have to pay rent to Lender or the new owner.
- (e) The Trustee and Lender shall have any other right or remedy allowed under the Note, this Deed of Trust, or at law, or in equity.

If Lender invokes the power of sale, Lender reserves the right to execute or cause Trustee to execute a written notice of the occurrence of an Event of Default and of Lender's election to cause the Property to be sold and cause such notice to be recorded in the county in which the Property is located. Lender or Trustee shall give notice of sale in the manner prescribed by applicable law to Borrower and to the other persons prescribed by applicable law. After the lapse of such time as may be required by applicable law, Trustee, without demand on Borrower, may sell the Property at public auction to the highest bidder at the time and place and under the terms designated in the notice of the sale. Trustee may postpone sale of the Property by public announcement at the time and place of any previously scheduled sale. Lender or Lender's designee may purchase the Property at any sale.

Trustee shall deliver to the purchaser Trustee's Deed conveying the Property so sold without any covenant or warranty, expressed or implied. The recitals in the Trustee's Deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all reasonable costs and expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees and costs of title evidence; (b) to all sums secured by this Deed of Trust; and (c) the excess, if any, to the person or persons legally entitled thereto.

**It is understood and agreed that all of the Lender's rights under this Trust Deed are subordinate in all respects to the original rights of the first mortgagee and note holder who financed the purchase of the Property by Borrower and who, to the extent of that original mortgage, is in a first lien position (herein "First Mortgagee").** In the event that the First Mortgagee forecloses on the Property and the net sale proceeds from the Property are insufficient to discharge the first priority lien of the First Mortgagee, or Borrower executes a deed-in-lieu of foreclosure for the benefit of the First Mortgagee, the

full amount of the Loan and all obligations of Borrower to repay the indebtedness secured by this Deed of Trust are waived.

**15. Default Interest.** During any period in which the Borrower is in default hereunder, the Loan will bear interest on the unpaid balance thereof at the rate of ten percent (10%) per annum 30 days after the date on which a Notice of Default is delivered or mailed to Borrower unless the Note Holder specifies otherwise in writing. At the discretion of the Note Holder, any default interest may be added to the principal balance of the Loan.

**16. Post Judgment Interest.** The Loan will bear interest on the unpaid balance thereof at the rate of twelve percent (12%) per annum immediately upon the issuance of any judgment or other decree in favor of the Note Holder or Beneficiary in the exercise of their remedies under this Deed of Trust or the Note.

**17. Borrower's Right to Reinstate.** Notwithstanding Lender's acceleration of the sums secured by this Deed of Trust due to Borrower's breach, Borrower shall have the right to have any proceedings begun by Lender to enforce this Deed of Trust discontinued at any time prior to the earlier of: (a) five days (or such other period as applicable law may specify for reinstatement) before sale of the Property pursuant to the power of sale contained in this Deed of Trust or (b) entry of a judgment enforcing this Deed of Trust if: (i) Borrower pays Lender all sums which would be then due under this Deed of Trust and the Note had no acceleration occurred; (ii) Borrower cures all breaches of any covenants or agreements of Borrower contained in this Deed of Trust or the Note; (iii) Borrower pays all reasonable expenses incurred by Lender and Trustee in enforcing the covenants and agreements of Borrower contained in this Deed of Trust, and in enforcing Lender's and Trustee's remedies as provided in Section 15 hereof, including, but not limited to, reasonable attorneys' fees; and (iv) Borrower takes such action as Lender may reasonably require to assure that the lien of this Deed of Trust, Lender's interest in the Property and Borrower's obligation to pay the sums secured by this Deed of Trust shall continue unimpaired. Upon such payment and cure by Borrower, this Deed of Trust and the obligations secured hereby shall remain in full force and effect as if no acceleration had occurred.

**18. Reconveyance.** Upon payment of all sums secured by this Deed of Trust, Lender shall request Trustee to reconvey the Property and shall surrender this Deed of Trust and the Note evidencing indebtedness secured by this Deed of Trust to Trustee. Trustee shall reconvey the 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. Such fees may include, but are not limited to, escrow, reconveyance, processing and recording fees.

**19. Substitute Trustee.** In accordance with applicable law, Lender may from time to time remove Trustee and appoint a successor Trustee to any Trustee appointed hereunder. Without conveyance of the Property, the successor Trustee shall succeed to all the title, power and duties conferred upon the Trustee herein and by applicable law.

**20. Use of Property.** The Property is not currently used for agricultural, timber or grazing purposes.

**21. Indemnity.** Borrower agrees to save, defend and to hold harmless Lender, its employees, agents and assigns, from any and all claims, demands, damages, liabilities, and expenses arising out of Lender's interest under this Agreement, including but not limited to attorneys' fees incurred by Lender in enforcing its rights hereunder. As used in this Deed of Trust and in the Note, "attorneys' fees" shall include attorneys' fees, if any, which shall be awarded by an appellate court.

**22. Time is of the Essence.** Time is of the essence with respect to all covenants and obligations Borrower has made under this Agreement.

**23. Successors and Assigns Bound; Joint and Several Liability; Co-signers.** The covenants and agreements herein contained shall bind, and the rights hereunder shall insure to, the respective successors and assigns of Lender and Borrower. All covenants and agreements of one or more Borrower's shall be joint and several. Any Borrower who co-signs this Deed of Trust, but does not execute the Note, (a) is co-signing this Deed of Trust only to grant and convey that Borrower's interest in the Property to Trustee under the terms of this Deed of Trust, (b) is not personally liable on the Note or under this Deed of Trust, and agrees that Lender and any other Borrower hereunder may agree to extend, modify, forbear, or make any other accommodations with regard to the terms of this Deed of Trust or the Note, without that Borrower's consent and without releasing that Borrower or modifying this Deed of Trust as to that Borrower's interest in the Property. At any time and from time to time upon written request of Beneficiary, and payment of the Trustee's fees and presentation of this Deed of Trust, 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 the Property; (b) join in granting any easement or creating any restriction thereon; (c) join in any subordination or other agreement affecting this Deed of Trust or the lien or change thereof.

**24. Notice.** Except for any notice required under applicable law to be given in another manner, (a) any notice to Borrower provided for in this Deed of Trust shall be given by delivering it or by mailing such notice by certified mail addressed to Borrower at the Property Address, or at such other address as Borrower may designate by notice to Lender as provided herein, and (b) any notice to Lender shall be given by certified mail to Lender's address stated herein, or to such other address as Lender may designate by notice to Borrower as provided herein. Any notice provided for in this Deed of Trust shall be deemed to have been given to Borrower or Lender when given in the manner designated herein.

**25. Governing Law; Severability.** The state and local laws applicable to this Deed of Trust shall be the laws of the jurisdiction in which the Property is located. The foregoing sentence shall not limit the applicability of federal law to this Deed of Trust. In the event that any provision or clause of this Deed of Trust or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Deed of Trust or the Note which can be given effect without the conflicting provision, and to this end the provisions of this Deed of Trust and the Note are declared to be severable. As used herein, "costs", "expenses" and "attorneys' fees" include all sums to the extent not prohibited by applicable law or limited herein.

**26. Borrower's Copy.** Borrower shall be furnished a conformed copy of the Note and this Deed of Trust at the time of execution or after recordation hereof.



BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Deed of Trust and in any rider(s) executed by Borrower and recorded with it.

Michael D. Thompson  
Borrower: Michael D. Thompson  
Dean

Borrower:

STATE OF OREGON )  
County of Klamath : ss )

On the 16<sup>th</sup> day of April, 2010, before me, the undersigned Notary Public, in and for the County and State aforesaid, personally appeared the above-named Michael Dean Thompson, who is known to me to be the identical individual(s) who executed the within instrument, and acknowledged to me execution of said instrument freely and voluntarily.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year last above written.

(NOTARY SEAL)



M Stuart  
NOTARY PUBLIC FOR OREGON

My commission expires on: 12/20/10