

WTC 89898

2011-003258

Klamath County, Oregon



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03/07/2011 02:24:54 PM

Fee: \$62.00

Grantor Name(s):
Steven E. Nelson and Mary Beth Nelson
After Recording Return to:
The Hartley Family Trust 3334 Cabo Way Carlsbad, CA 92009

Reserved for Recorder's Use

TRUST DEED

THIS TRUST DEED ("Security Instrument") is made on this **1st day of March, 2011,**

BY "**Grantor**": **Steven E. Nelson and Mary Beth Nelson**

whose address is: 985 NW Yosemite Drive, Bend, OR 97701

TO "**Trustee**": **Western Title & Escrow Company**

having its office at 360 SW Bond, Suite 100
Bend, OR 97702

FOR THE BENEFIT OF "**Beneficiary**": **The Hartley Family Trust, Donald R. Hartley and Susan L. Hartley, Trustees of the Hartley Family Trust**

whose address is: 3334 Cabo Way, Carlsbad, CA 92009

Grantor owes Beneficiary the principal sum of **One Hundred Fifty Thousand and 00/100 Dollars (\$150,000.00)**, which is evidenced by a promissory note (the "Note") of even date herewith. The Note if not sooner paid, is due and payable in full on **One year with an option to renew each year if both parties herein are in agreement.**

For the purpose of securing the Obligations described below, Grantor irrevocably grants and conveys to Trustee, in trust, for the benefit and security of Beneficiary, with power of sale, the real property located in **Klamath County, Oregon**, more particularly described as:

Lot 9 and the Southeasterly 16 feet of Lot 10, TRACT 1430 - TIMBERMILL SHORES, according to the official plat thereof on file in the office of the County Clerk, Klamath County, Oregon.

Account No(s): **3809-032DA-00900-000**

Map/Tax Lot No(s):

Together with all buildings, if any, other improvements and fixtures now or hereafter located thereon or attached thereto, all easements, appurtenances and other rights relating thereto, and all insurance proceeds for any damage thereto (collectively, the "Property")

Provided, however, that if all the Obligations shall be paid, performed, and satisfied in full, then upon the payment of Trustee's fees, if any, and presentation of this Trust Deed and the Note to Trustee, the lien and estate hereby granted shall be reconveyed to Grantor or the person or persons legally entitled thereto.

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GRANTOR AGREES:

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, including and extensions or modifications of either (collectively, the "Obligations").

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

1.03 Property. Grantor covenants that Grantor will forever defend Beneficiary's and Trustee's rights hereunder against the adverse claims and demands of all persons.

This Trust Deed shall be subject and inferior to that certain trust deed to South Valley Bank & Trust, recorded prior to and concurrently herewith.

1.04 Compliance with Laws. Grantor covenants that the Property will at all times be maintained in material compliance with all applicable laws and all covenants conditions, easements, and restrictions affecting the Property.

1.05 Environmental Compliance

(1) For purposes of this section, "Environmental Law" means any federal, state, or local law or regulation now or hereafter in effect pertaining to Hazardous Substances or environmental conditions. "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) Grantor will not use, generate, store, release, discharge, or dispose of any Hazardous Substance on, under, or about the Property, or the groundwater thereof, 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. Grantor shall store and use such substances, and keep and maintain the Property, in compliance with all Environmental Laws. If any environmental assessment, monitoring, cleanup, or other remedial work is required as a result of any violation of the Section, Grantor shall promptly complete such work at Grantor's expense. Grantor shall indemnify and defend Beneficiary against any and all damages, costs, expenses, liabilities, and attorney fees directly or indirectly attributable to any violation of this Section. To the maximum extent allowed by law, all obligations of Grantor under this Section shall survive any foreclosure of this Trust Deed.

1.06 Maintenance and Improvements; Inspections. Grantor shall not permit the Property or any part thereof to be removed or demolished, or materially in a manner that reduces the value of the Property, without Beneficiary's prior written consent, nor commit per permit any waste or strip of the Property. Grantor shall maintain the Property, and every part thereof, including any landscaping, in good condition and repair, 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 covered by insurance. Beneficiary or its agent may make reasonable entries upon the Property to inspect the same, upon at least 48 hours prior notice.

1.07 Liens. Grantor shall pay when due all claims for labor and materials that, if unpaid, might become a lien on the Property. Grantor shall not create or permit any lien, security interest or encumbrance on the Property that may be prior to, or of equal priority with, the lien of this Trust Deed, except as permitted in Section 1.08 or as approved in writing by Beneficiary.

1.08 Impositions. Grantor shall pay when due all taxes, assessments, fees, and other governmental and nongovernmental charges of every nature now or hereafter assessed against any part of the Property (collectively, the "Impositions"); provided, however, that if by law any such Imposition may be paid in installments, Grantor may pay the same in installments, together with accrued interest on the unpaid balance thereof, as they become due. Grantor shall furnish to Beneficiary promptly on request satisfactory evidence of the payment of all Impositions within 10 days after each payment.

1.10 Limitations of Use. Grantor 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.

1.11 Insurance

(1) Grantor shall obtain and maintain during the term of this Trust Deed all-risk property insurance on terms acceptable to Beneficiary and in an amount not less than the cost of replacement of all improvements or, if greater, in an amount not less than the full remaining principal balance of the Obligations without reduction for co-insurance.

(2) All insurance shall be written by a company or companies reasonably acceptable to Beneficiary; shall contain a mortgagee endorsement in favor of Beneficiary with proceeds under any policy payable to Beneficiary, subject to the terms of this Trust Deed; and shall require 10 days' prior written notice to Beneficiary of cancellation or reduction in coverage. Grantor shall furnish to Beneficiary a certificate evidencing the coverage required under this Trust deed promptly when issued and at least ten days prior to the expiration of any policy now or hereafter in effect. Grantor shall furnish a copy of such policy upon Beneficiary's request..

(3) **ORS 746.201 WARNING: UNLESS GRANTOR PROVIDES BENEFICIARY WITH EVIDENCE OF INSURANCE COVERAGE AS REQUIRED BY THE CONTRACT OR LOAN AGREEMENT BETWEEN THEM, BENEFICIARY MAY PURCHASE INSURANCE AT GRANTOR'S EXPENSE TO PROTECT BENEFICIARY'S INTEREST. THIS INSURANCE MAY, BUT NEED NOT, ALSO PROTECT GRANTOR'S INTEREST. IF THE COLLATERAL BECOMES DAMAGED, THE COVERAGE PURCHASED BY BENEFICIARY MAY NOT PAY ANY CLAIM MADE BY OR AGAINST GRANTOR. GRANTOR MAY LATER CANCEL THE COVERAGE BY PROVIDING EVIDENCE THAT GRANTOR HAS OBTAINED PROPERTY COVERAGE ELSEWHERE. GRANTOR IS RESPONSIBLE FOR THE COST OF ANY INSURANCE COVERAGE PURCHASED BY BENEFICIARY, WHICH COST MAY BE ADDED TO GRANTOR'S CONTRACT OR LOAN BALANCE. IF IT IS SO ADDED, THE INTEREST RATE ON THE UNDERLYING CONTRACT OR LOAN WILL APPLY TO IT. THE EFFECTIVE DATE OF COVERAGE MAY BE THE DATE GRANTOR'S PRIOR COVERAGE LAPSED OR THE DATE GRANTOR FAILED TO PROVIDE PROOF OF COVERAGE. THE COVERAGE BENEFICIARY PURCHASES MAY BE CONSIDERABLY MORE EXPENSIVE THAN INSURANCE GRANTOR MIGHT OTHERWISE OBTAIN ALONE AND MAY NOT SATISFY ANY NEED FOR PROPERTY DAMAGE COVERAGE OR ANY MANDATORY LIABILITY INSURANCE REQUIREMENTS IMPOSED BY APPLICABLE LAW.**

1.11 Casualty/Loss Restoration

(1) After the occurrence of any casualty to the Property, whether or not covered by insurance, Grantor shall give prompt written notice thereof to Beneficiary. Beneficiary may make proof of loss if it is not made promptly and to Beneficiary's satisfaction by Grantor.

(2) All insurance proceeds with respect to the Property shall be payable to Beneficiary. At Beneficiary's discretion, insurance proceeds may be applied to the Obligations or may be applied by Grantor, on such terms and conditions as Beneficiary elects, for restoration of the Trust Property.

1.12 Actions to Protect Trust Property. If Grantor shall fail to pay, perform, or observe any of its covenants hereunder, Beneficiary may, but shall not be required to, take such actions as it deems appropriate to remedy such failure. All sums, including reasonable attorney fees, so expended, or expended to protect or enforce any of Beneficiary's rights hereunder, or the lien or priority of this Trust Deed, shall be secured by this Trust Deed, and shall be paid by Grantor on demand, together with interest thereon at the rate provided in the Note. No payment or other action by Beneficiary under this section shall impair any other right or remedy available to Beneficiary or constitute a waiver of any Event of Default.

1.13 Fixtures. To secure the Obligations Grantor also hereby grants to Beneficiary a security interest in all fixtures located on the Property, or that become attached to the Property while this Trust Deed remains in effect.

2.01 Condemnation. Should the Property or any part thereof be taken by reason of any right of eminent domain or condemnation proceeding, or should Grantor receive any notice or other information regarding such action, Grantor shall give immediate notice thereof to Beneficiary. Beneficiary shall be entitled to all compensation, awards, and other payments or relieve therefore, up to the full amount of the Obligations remaining due. Beneficiary shall either, at its option, apply the condemnation proceeds to the Obligations or apply the proceeds, on such terms and conditions as the Beneficiary reasonably elects, for restoration of the Property.

3.01 Events of Default. Each of the following shall constitute an Event of Default under this Trust Deed:

(1) **Nonpayment.** Failure of Grantor to pay any of the Obligations on or within fifteen (15) days after the due date.

(2) **Breach of Other Covenants.** Failure of Grantor to perform or abide by any other covenant included in the Obligations within 14 days after written notice from Beneficiary of the violation.

(3) **Default on Other Financing.** Grantor's default, beyond any applicable grace period, in the payment of any other indebtedness secured by all or any portion of the Property.

(4) **Transfer; Due-on-Sale.** Any sale, gift, conveyance, lease for a term in excess of three years, formation of any contract for sale of, or granting an option to purchase, the Property, or any part thereof or any interest therein, voluntarily or involuntarily, without Beneficiary's prior written consent. This Section 3.01(4) shall not apply to any earnest money agreement or when exercise of this due on sale clause by Beneficiary is prohibited by applicable law. Beneficiary may attach such conditions to its consent as Beneficiary may determine in its sole discretion, including without limitation the payment by Grantor of legal fees and costs incurred by Beneficiary in evaluating any request for such consent.

3.02 Remedies in Case of Default. If an Event of Default shall occur, Beneficiary 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 or any successor trustee to foreclose this Trust Deed by advertisement and sale pursuant to ORS 86.735 to 86.795, subject to Grantor's right to cure the default as provided by ORS 86.753.

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

(4) **Fixtures and Personal Property.** With respect to any fixtures or personal property subject to a security interest in favor of Beneficiary, Beneficiary may exercise any and all rights and remedies of a secured party under the Oregon Uniform Commercial Code.

3.03 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.

3.04 Application of Proceeds. All proceeds from the exercise of the foregoing rights and remedies shall be applied to the costs of exercising such rights and remedies; then to the Obligations, in such order as Beneficiary shall determine in its sole discretion; and 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.

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

4.02 Notice. Except as otherwise provided in this Trust Deed, all notices shall be in writing and may be delivered by hand, or mailed by 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 (or to Grantor at the subject property if Grantor resides there). 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 on the date of mailing; notices given by hand or by first class mail shall be deemed to have been given when actually received.

4.03 Successor Trustee. From time to time Beneficiary may appoint one or more successor trustees to execute the trust hereby created, and the new trustee shall succeed to all the powers and duties of the prior trustee.

4.04 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.

4.05 Expenses and Attorney Fees. 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 non-judicial action, suit, or proceeding in connection with any of the Obligations or the Property (including but not limited to foreclosure, 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, including the cost of any foreclosure or title report and trustee's fees, costs and expenses. 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.

4.06 Construction. As used in this Trust Deed, the word "person" shall mean any natural person, partnership, corporation, limited liability company, trust, or other legal entity. The singular includes the plural, and the plural the singular. The masculine and neuter each include the masculine, feminine, and neuter, as the context requires.

GRANTOR:

Executed this 4 day of March, 2011

Steven E. Nelson
Steven E. Nelson

Mary Beth Nelson
Mary Beth Nelson

State of Oregon, County of Deschutes, ss.

This instrument was acknowledged before me on this 4 day of March, 2011 by **Steven E. Nelson** and **Mary Beth Nelson**

Melissa S. Riverman
Notary Public for Oregon
My commission expires:



REQUEST FOR RECONVEYANCE (to be used only when all obligations have been paid)

TO TRUSTEE:

The undersigned is the legal owner and holder of all indebtedness secured by the foregoing trust deed. All sums secured by the trust deed have been fully paid and satisfied. You hereby are directed, on payment to you of any sums owing to you under the terms of the trust deed or pursuant to statute, to cancel all evidences of indebtedness secured by the trust deed (which are delivered to you herewith together with the trust deed) and to reconvey, without warranty, all the estate now held by you under the same to the person or persons legally entitled thereto. Mail reconveyance to: _____.

BENEFICIARY:

Date: _____

**Do not lose or destroy this Trust Deed or the Note which it secures.
Both must be delivered to trustee for cancellation before reconveyance will be made.**

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