

2012-001253

Klamath County, Oregon



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02/03/2012 09:14:16 AM

Fee: \$82.00

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

Cynthia P. Caggiano, Paralegal
Stoel Rives LLP
900 SW Fifth Avenue, Suite 2600
Portland, OR 97204

ASSIGNMENT OF LEASES AND RENTS

DATED: JANUARY 10, 2012

BETWEEN: RLF RUNNING Y RANCH, LLC,
a Colorado limited liability company
c/o Resource Land Holdings
619 N. Cascade Avenue, Suite 200
Colorado Springs, CO 80903

ASSIGNOR

AND: METROPOLITAN LIFE INSURANCE COMPANY,
a New York corporation
205 E. River Park Circle, Suite 330
Fresno, CA 93720

ASSIGNEE

AFTER RECORDING, THIS INSTRUMENT SHOULD BE RETURNED TO:

Metropolitan Life Insurance Company
205 E. River Park Circle, Suite 330
Fresno, CA 93720

ASSIGNMENT OF LEASES AND RENTS

This Assignment of Lease and Rents (the "Assignment") is made as of January 10, 2012, by RLF RUNNING Y RANCH, LLC, a Colorado limited liability company, ("Assignor") to METROPOLITAN LIFE INSURANCE COMPANY, a New York Corporation ("Lender").

Whereas, Lender has previously made, or agreed to make, a loan in the principal amount of \$6,000,000.00 (the "Loan") to Assignor which is evidenced by a Promissory Note in such amount dated August 31, 2011 made by Assignor to the order of Lender (the "Note") The Note and Loan are secured by, among other things, a Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing dated August 31, 2011 and recorded September 2, 2011 as Instrument No. 2011-010051, Records of Klamath County, Oregon (the "Trust Deed") encumbering the real property in Klamath County, Oregon described on attached Exhibit A and certain related personal property and water rights (the "Premises"), and a UCC Financing Statement filed with the Colorado Secretary of State on November 2, 2011 as No.2011204120. In connection with the Loan, Assignor executed and delivered to Lender a Loan Agreement dated August 31, 2011 which contains additional terms and conditions relating to the Loan.

Whereas, Assignor has entered into, or agreed to enter into, an Agricultural Lease with Tally Ho Farms, an Oregon general partnership, pursuant to which Assignor will lease a portion of the Premises to Tally Ho Farms (the "Lease"). Assignor has requested Lender's consent to the Lease, and requested Lender to enter into a Non Disturbance and Attornment Agreement with respect to the Lease.

As used hereinafter, the term "Security Documents" shall mean the Note, the Trust Deed, the Loan Agreement, the Unsecured Environmental Indemnity Agreement, and each other document securing the indebtedness evidenced by the Note, as each of the foregoing may from time to time be amended, modified or supplemented or any instrument issued in substitution or exchange therefor or for such substituted or exchanged instrument.

NOW, THEREFORE, Assignor, for value consideration, hereby Grants, Assigns, Transfers and sets over to Lender, its successors and assigns, (a) all of the rents, issues, profits and income whatsoever arising from or which may be paid under the Lease; (b) all right, title and interest of Assignor in and to the Lease; (c) and security held by Assignor for performance of the Lease, including all rights of Assignor as secured party with respect to any security interest securing payment or performance of a Lease ("Supporting Obligations"); and (d) all guarantees, amendments, replacements, extensions and renewals of the Lease. Assignor hereby grants a security interest in all Supporting Obligations. This Assignment is given as additional security for the Loan.

Lender hereby consents to the Lease. Such consent does not effectuate a subordination of the Security Documents, and the Security Documents remain prior to and superior to the Lease.

Assignor will observe and perform all material covenants, conditions, and agreements in the Lease or in any assignment in fact given by Assignor to Lender on the part of the Assignor or the landlord to be observed and performed thereunder. Assignor will not, (a) without the prior written consent of Lender, which may be granted or withheld in Lender's sole discretion, accept any payment of rent or installments of rent (including, without limitation, security deposits) more than one month in advance of their due date under the Lease, (b) without the consent of Lender, which may be granted or withheld in Lender's reasonable discretion, amend or modify the Lease in any manner which materially changes the terms of the Lease adversely to the landlord or which extends the term or reduces the rental, (c) without the consent of Lender, which may be granted or withheld in Lender's reasonable discretion, take any action or exercise any right or option which would permit the tenant under any Lease to cancel or terminate said Lease, or (d) without the consent of Lender, which may be granted or withheld in Lender's reasonable discretion, permit any Lease to be or become subordinate to any lien other than the lien of the Deed of Trust or any lien to which the Deed of Trust is now or may pursuant to their respective terms become subordinate.

This Assignment is absolute and effective upon execution by Assignor. Although this Assignment constitutes an absolute, present and current assignment of all rents under the Lease, so long as no event of default as defined in the Trust Deed (an "Event of Default") shall have occurred, Lender shall not demand that such rents be paid directly to Lender, and Assignor shall have a license to collect, but not more than one (1) month prior to the due date thereof, all such rents. All rents collected after and during an Event of Default shall be held in trust for Lender. Following and during the continuance of an Event of Default, Lender may take all actions under the Security Documents, and collect the rents, issues, profits and income from the Lease.

In the event such an Event of Default under the Security Documents shall have occurred and be continuing, Assignor agrees to endorse and deliver to Lender, the Lease and other agreements relating or pertaining to the operation of the Premises. Without limiting the provisions of the immediately preceding sentence, and whether or not Assignor endorses and/or delivers said Lease and other agreements to Lender, as aforesaid, this Assignment of Rents and Leases shall be deemed to be an assignment of such Lease and other agreements to Lender. The provisions hereof shall not limit the effect of any assignments of particular leases and other agreements in fact given to Lender by Assignor.

It is further understood that this Assignment shall not operate to place responsibility for the control, care, management or repair of the Premises upon Lender, nor for the performance of any of the terms and conditions of the Lease or other agreements assigned hereunder, nor shall it operate to make Lender responsible or liable for any waste committed on the Premises by the tenants or any other party or for any dangerous or defective condition of the Premises or for any negligence in the management, upkeep, repair or control of the Premises resulting in loss or injury to any tenant, invitee, licensee, employee or stranger.

The acceptance of this Assignment and the collection of the rents and profits hereby assigned, shall be without prejudice to and shall not constitute a waiver on the part of Lender of any of Lender's rights or remedies under the terms and conditions of the Security Documents, at law or in equity, or otherwise.

Assignor hereby assigns to Lender (a) any award or other payment which Assignor may hereafter become entitled to receive with respect to the Lease or other agreement relating or pertaining to the

operation of the Premises as a result of or pursuant to any bankruptcy, insolvency, or reorganization or similar proceedings involving any other party under such Lease or other agreement and (b) any and all payments made by or on behalf of any other party. Assignor hereby irrevocably appoints Lender as its attorney to appear in any such proceeding and/or to collect any such award or payment.

Lender may, at its option, notify the tenant under the Lease of the existence of this Assignment. Assignor authorizes and directs the tenant under the Lease, upon receipt from Lender of written notice that an Event of Default has occurred, to pay over to Lender any rents and other amounts due under the Lease.

Assignor agrees to reimburse Lender for all costs, expenses, and attorneys' fees that Lender incurs following and during the continuance of an Event of Default in connection with the enforcement of any obligation contained in this Assignment of Rents and Leases or the collection of any rents assigned herein, with or without litigation, including, without limitation, any costs, expenses, and fees incurred: (a) in making demands for and collecting any rents; (b) in any action for rents against Assignor or any lessee; (c) on appeal; (d) in any petition for review; (e) in any arbitration or mediation; (f) in any action contesting or seeking to restrain, enjoin, stay, or postpone the exercise of any remedy in which Lender prevails; (g) in any bankruptcy, probate, receivership or other proceeding involving Assignor; and (h) in connection with all negotiations, documentation, and other actions relating to any work-out, compromise, settlement or satisfaction relating to this Assignment of Rents and Leases. All such costs, expenses, and fees shall be due and payable upon demand, shall bear interest from the date incurred through the date of collection at the default rate stated in the Security Documents, and shall be secured by the Deed of Trust.

The remedies of Lender hereunder are cumulative and the exercise of any one or more of the remedies provided for herein shall not be construed as a waiver of any of the other remedies of Lender as long as any obligation under the Security Documents remains unsatisfied.

All rights of Lender hereunder shall inure to the benefit of its successors and assigns, and all obligations of Assignor shall bind its successors and assigns. All rights of Lender in, to and under this Assignment and in and to the collateral security provided hereby shall pass to and may be exercised by any Lender thereof. Assignor agrees that if Lender gives notice to Assignor of an assignment of said rights, upon such notice the liability of Assignor to the Lender shall be immediate and absolute. Assignor will not set up any claims against the original or any intervening Lender as a defense, counterclaim or set off to any action brought by any such Lender for any amounts due hereunder or for possession of or the exercise of rights with respect to the collateral security provided hereby.

All notices, demands, and requests given hereunder shall be in writing. All notices hereunder shall be deemed to have been duly given if mailed by United States registered or certified mail, with return receipt requested, postage prepaid, or by United States Express Mail or other comparable overnight courier service to the parties at the addresses set forth below (or at such other addresses as shall be given in writing by any party to the others) and shall be deemed complete upon receipt or refusal to accept delivery as indicated in the return receipt or in the receipt of such United States Express Mail or courier service:

If to Assignor:

RLF Running Y Ranch, LLC
c/o Resource Land Holdings
619 N. Cascade Avenue, Suite 200
Colorado Springs, Colorado 80903

If to Lender:

Metropolitan Life Insurance Company
Agricultural Investments
10801 Mastin Blvd., Suite 930
Overland Park, Kansas 66210
Attention: Senior Vice-President

with a copy to:

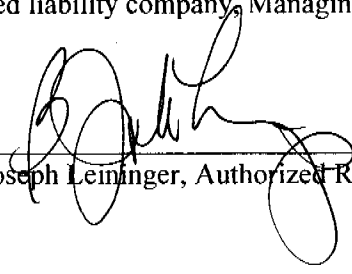
Metropolitan Life Insurance Company
Agricultural Investments
Western Branch Office
205 E. River Park Circle, Suite 330
Fresno, CA 93720
Attention: Manager

[SIGNATURE PAGE FOLLOWS]

ASSIGNOR:

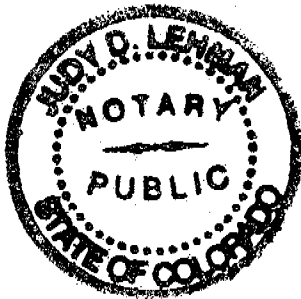
RLF RUNNING Y RANCH, LLC
a Colorado limited liability company

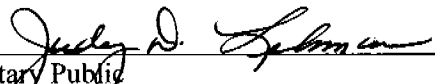
By: RESOURCE LAND FUND IV, LLC
a Colorado limited liability company, Managing Member

By: 
B. Joseph Leininger, Authorized Representative

STATE OF COLORADO)
COUNTY OF EL PASO) ss.

This instrument was acknowledged before me on JANUARY 13, 2012, by B. Joseph Leininger as Authorized Representative of Resource Land Fund IV, LLC, a Colorado limited liability company, Managing Member of RLF Running Y Ranch, LLC, a Colorado limited liability company.




Notary Public
My commission expires: 11-15-2012
Commission No.: 20004033927

SCHEDULE A
Legal Description

TRACT 1:

Tract 1 Parcel A: (Account 3808-00600-00300 & 3808-00700-00400)

A tract of land situated in Sections 6 and 7, Township 38 South, Range 8 East of the Willamette Meridian, Klamath County, Oregon, being more particularly described as follows:

Beginning at a point on the Northerly boundary of State Highway 140 West 658 feet North (610 feet on Klamath County Survey 4035) of the East-West centerline of said Section 7; thence following the Caledonia-Wocus division line South 88° 04' 41" West to the Southerly boundary of said highway which is the True Point of Beginning, then continuing to follow the Caledonia-Wocus division line South 88° 04' 41" West to a stone marked with across, mentioned as the "place of beginning" in Deed Volume 47, page 331, Deed Records of Klamath County, Oregon, located at the Easterly end of the cross-dike between the Caledonia and Wocus Tracts, which point is 2621 feet West of the section line common to sections 7 and 8, Township 38 South, Range 8 East of the Willamette Meridian, Klamath County, Oregon; thence North 24° East 100 feet; thence North 66° West 1050 feet, more or less, to the centerline of the Caledonia Canal in the SE1/4 of the NW1/4 of Section 7, Township 38 South, Range 8 East of the Willamette Meridian, Klamath County, Oregon; thence Northerly along the centerline of said Caledonia Canal to the intersection of said centerline with the Southerly boundary of State Highway 140 West; thence Southeasterly along the Southerly boundary of said highway to the true point of beginning.

Tract 1 Parcel B: (Account 3808-00000-00900, 001000, 001200, 01900, 02100, 02200 (por), 02300, 02500, 3808-00800-00300, 00500, 00700, 3808-009C0-00900, 3808-01500-00300 (por), 3808-01600-00200, 3808-03400-00100, 3808-03500-00200, 00300 & 3808-03600-00500)

Township 38 South, Range 8 East of the Willamette Meridian, Klamath County, Oregon.

Section 8: All that portion of said section lying South and West of the Orindale Draw State Highway.

Section 9: That portion of the S1/2 lying Southerly of the South Right of way line of Lake of the Woods Highway 140

Section 15: that portion of the SW1/4 SW1/4 lying Westerly of the Lake of the Woods State Hwy 140

Section 16: lying Westerly of the West Right of way line of Lake of the Woods Highway 140

Section 17: E1/2, NW1/4, N1/2 SW1/4, SE1/4 SW1/4 and Lot 2

Section 18: SE1/4 SE1/4; N1/2 NE1/4, SE1/4 NE1/4 all those portions of the N1/2 SE1/4, SW1/4 NE1/4, NE1/4 NW1/4, SE1/4 NW1/4 lying North and East of Government Meander line.

Section 20: The NE1/4; that portion of the SE1/4 North of Government Meander line and that portion of W1/2 North and East of Government Meander line.

Section 21: All

(Legal Description Continued)

Section 27: All, except that portion thereof in State Highway 140 and that portion lying Northeasterly of State Highway 140

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Section 28: SE1/4 SE1/4, N1/2 SE1/4, E1/2 NW1/4, and the portion of W1/2 NW1/4 North of Government Meander line through said Section 28; NE1/4
Section 29: The portion of NE1/4 NE1/4 North of Government Meander line through Section 29.
Section 34: SE1/4, E1/2 SW1/4, NW1/4, N1/2 NE1/4, SW1/4 NE1/4
Section 35: All that portion of said section lying South and West of the Orindale Draw State Highway.
Section 36: All that portion of said section lying South and West of the Orindale Draw State Highway.

Tract 1 Parcel C: (Account 3808-00600-00400, 3808-00700-00200 & 3808-00700-00600)

Those portions of Sections 6 and 7, Township 38 South Range 8 East of the Willamette Meridian, within the following described boundaries:

Beginning at the section corner common to Sections 7, 8, 17 and 18; thence North along the section line common to Sections 7 and 8 to Southerly boundary of the Klamath Lake Highway; thence Northwesterly along the Southerly boundary of the Klamath Lake Highway to its intersection with a line parallel to the East-West center line of Section 7 and North 658 feet of said line (said line being the division line between the Caledonia and Wocus Tracts); thence following said Caledonia-Wocus division line Westerly to a point on the Easterly end of the crossdike between the Caledonia and Wocus Tracts, which point is 2621 feet West of the Section line common to Sections 7 and 8; thence South 24° West 100 feet; thence North 66° West 1000 feet, more or less, to the Westerly end of the crossdike; thence North 24° East 200 feet; thence North 66° West 50 feet to the center of the Caledonia Canal in the SE1/4 NW1/4 of Section 7; thence Northerly along the center line of said Caledonia Canal to intersection of said center line with the West boundary of Lot 3, Section 6, Township 38 South, Range 8 East of the Willamette Meridian; thence South along the West boundary of Lot 3, continuing South along the West boundary of Lot 4 in said Section 6; thence continuing South along the West boundaries of Lots 4 and 5 in Section 7, Township 38 South, Range 8 East of the Willamette Meridian, to the intersection of the West boundary of Lot 5 with the Easterly boundary of the Old State Highway #421 in S1/2 NW1/4 of Section 7; thence Southwesterly along said Easterly boundary of the old State Highway #421 to its intersection in Lot 6 with the East line of the W1/2 NW1/4 SW1/4 of Section 7; thence South 0° 16' West 973 feet, more or less, to the South line of NW1/4 SW1/4 of Section 7, which point is 660 feet East of the Southwest corner of Lot 6; thence South 14° 58' East 403.9 feet to a meander point in Lot 7, Section 7; thence following the Government Meander line Southerly and Easterly to the intersection of said Meander Line with the South line of Section 7; thence East along the South line of Section 7 to the point of beginning.

SAVING AND EXCEPTING from any of the above described real property any portions lying within the boundaries of the State Highway.

ALSO SAVING AND EXCEPTING that portion conveyed to State of Oregon, by and thru its State Highway Commission by Deed recorded September 12, 1967 in Volume M67 at page 7067, Microfilm Records of Klamath County, Oregon.

Tract 1 Parcel D: (Account 3808-00700-00500)

A parcel of land located in Section 7, Township 38 South, Range 8 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at the quarter section corner on the East line of Section 7, Township 38 South, Range 8 East of the Willamette Meridian, Klamath County, Oregon; thence North 658 feet thence West 2621 feet to a stone marked with a cross which stone is the place of beginning; thence South 24° West 100 feet; thence North 66° West 1000 feet; thence North 24° East 200 feet; thence South 66° East 1000 feet; thence South 24° West 100 feet to the place of beginning.

Tract 1 Parcel E: (Account 3908-00200-00100, 00200 & 00300)

Township 39 South, Range 8 East of the Willamette Meridian, Klamath County, Oregon.

Section 2: N1/2 NE1/4 and SW1/4 NE1/4