

WTC 93354

2012-004935

Klamath County, Oregon



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Fee: \$142.00

WHEN RECORDED MAIL TO:

Charles M. McNair
Fowler & McNair LLP
PO Box 1746
Medford, OR 97501

**UNTIL A CHANGE IS REQUESTED,
SEND TAX NOTICES TO:**

W.C. Ranch, Inc.
17356 Hill Road
Klamath Falls, OR 97603

**DEED OF TRUST,
ASSIGNMENT OF LEASES
AND RENTS, AND FIXTURE FILING**

Grantor: W.C. Ranch, Inc.
17356 Hill Road
Klamath Falls, OR 97603

Trustee: AmeriTitle
300 Klamath Avenue
Klamath Falls, OR 97601

Beneficiary: Michael B. Wray
c/o Charles McNair
Fowler & McNair LLP
PO Box 1746
Medford OR 97501

THIS DEED OF TRUST, is made as of the 30th day of April, 2012 by W.C. Ranch, Inc. ("Grantor"), to AmeriTitle, having its office at 300 Klamath Avenue, Klamath Falls, Oregon 97601 ("Trustee"), for the benefit of Michael B. Wray ("Beneficiary").

Beneficiary has entered into a Redemption Agreement of even date under the terms of which Grantor is obligated to pay him the sum of Nine Hundred Forty-Five Thousand Dollars (\$945,000), which amount is to be evidenced by a Promissory Note of even date herewith. The Note, if not sooner paid, is due and payable in full on January 31, 2022. (The Promissory Note as modified, supplemented, extended, renewed, or replaced from time to time is referred to below as the "Note").

As a condition to the making of and entering into the Redemption Agreement, Beneficiary has required, and Grantor has agreed to execute and deliver, this Deed of Trust.

142PMT

For valuable consideration, represented in the Note of even date herewith in the original principal amount of \$945,000, from Grantor to Beneficiary, Grantor conveys to Trustee for the benefit of Beneficiary all of Grantor's right, title, and interest in and to the following described real property, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; all easements, rights of way, and appurtenances; all water, water rights and ditch rights (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters, (the "Real Property") located in Klamath County, State of Oregon:

As described in Exhibit A attached hereto and incorporated herein by this reference.

The Real Property or its address is commonly known as 17356 Hill Road, Klamath Falls, OR 97603.

Grantor presently assigns to Beneficiary all of Grantor's right, title, and interest in and to all present and future leases of the Real Property and all Rents from the Real Property.

This Deed of Trust, including the assignment of rents, is given to secure (1) payment of the indebtedness and (2) performance of any and all obligations under the Note, any related documents, and this Deed of Trust. This Deed of Trust, including the assignment of rents, is also given to secure any and all of Grantor's obligations under that certain Redemption Agreement between Grantor and Beneficiary of even date herewith. Any event of default under the redemption agreement, or any of the related documents referred to therein, shall also be an event of default under this Trust.

To protect the security of this Deed of Trust, Grantor hereby covenants and agrees as follows:

ARTICLE I

Particular Covenants and Warranties of Grantor

1.01 Obligations Secured. This Deed of Trust secures the following, collectively referred to as the "Obligations":

(1) 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, whether such payment and performance is now due or becomes due in the future;

(2) The payment and performance of all covenants and obligations in this Deed of Trust, in the Redemption Agreement, and in all other security agreements, notes, agreements, and undertakings now existing or hereafter executed by Grantor with or for the benefit of Beneficiary; and

(3) The payment and performance of any and all other indebtedness and obligations of Grantor to Beneficiary of any nature whatsoever, whether direct or indirect,

primary or secondary, joint or several, liquidated or unliquidated, whenever and however arising, and whether or not reflected in a written agreement or instrument.

1.02 Payment of Indebtedness; Performance of Covenants. Grantor shall duly and punctually pay and perform all of the Obligations.

1.03 Property. Grantor warrants that it holds good and merchantable title to the Real Property and the Improvements, which includes without limitation all existing and future improvements, buildings, structures, mobile homes affixed on the Real Property, facilities, additions, replacements, and other construction on the real property, free and clear of all liens, encumbrances, reservations, restrictions, easements, and adverse claims except those specifically listed in Exhibit B. Grantor covenants that it shall forever defend Beneficiary's and Trustee's rights under this Deed of Trust against the adverse claims and demands of all persons. The Real Property and the Improvements are hereinafter referred to as the "Trust Property."

1.04 Further Assurances; Filing; Refiling; Etc.

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

(2) Grantor, immediately on the execution and delivery of this Deed of Trust, and thereafter from time to time, shall cause this Deed of Trust, any supplemental security agreement, mortgage, or deed of trust and each instrument of further assurance, to be recorded and rerecorded in such manner and in such places as may be required by any present or future law in order to perfect, and continue perfected, the lien and estate of this Deed of Trust.

(3) Grantor shall pay all filing and recording fees, and all expenses incident to the execution, filing, recording, and acknowledgment of this Deed of Trust; any security agreement, mortgage, or deed of trust supplemental hereto and any instrument of further assurance; and all federal, state, county, and municipal taxes, assessments and charges arising out of or in connection with the execution, delivery, filing, and recording of this Deed of Trust, any supplemental security agreement, mortgage, or deed of trust and any instrument of further assurance.

1.05 Compliance with Laws. Grantor further represents, warrants, and covenants that:

(1) The Trust Property, if developed, has been developed, and all improvements, if any, have been constructed and maintained, in full compliance with all applicable laws, statutes, ordinances, regulations, and codes of all federal, state, and local governments (collectively "Laws"), and all covenants, conditions, easements, and restrictions affecting the Trust Property (collectively "Covenants"); and

(2) Grantor and its operations on the Trust Property currently comply, and will hereafter comply, in all material respects with all applicable Laws and Covenants.

1.06 [Intentionally Omitted]

1.07 Maintenance and Improvements. Grantor shall maintain every portion of the Trust Property and improvements in good repair, working order, and condition, except for reasonable wear and tear, and shall at Beneficiary's election restore, replace, or rebuild all or any part of the Improvements now or hereafter damaged or destroyed by any casualty (whether or not insured against or insurable) or affected by any Condemnation (as defined in Section 2.01 below). Grantor shall not commit, permit, or suffer any waste, strip, or deterioration of the Trust Property. Grantor shall not demolish or remove any improvements from the Real Property without the prior written consent of Beneficiary.

1.08 Liens. Grantor shall pay when due all claims for labor, materials, or supplies that if unpaid might become a lien on all or any portion of the Trust Property. Grantor shall not create, or suffer, or permit to be created, any mortgage, deed of trust, lien, security interest, charge, or encumbrance on the Trust Property prior to, on a parity with, or subordinate to the lien of this Deed of Trust, except as specifically provided in Exhibit B.

1.09 Impositions.

(1) Grantor shall pay or cause to be paid, when due and before any fine, penalty, interest, or cost attaches, all taxes, assessments, fees, levies, and all other governmental and nongovernmental charges of every nature now or hereafter assessed or levied against any part of the Trust Property (including, without limitation, levies or charges resulting from Covenants), or on the lien or estate of Beneficiary or Trustee (collectively, the "Impositions"); provided, however, that if by law any such Imposition may be paid in installments, whether or not interest shall accrue on the unpaid balance, Grantor may pay the same in installments, together with accrued interest on the unpaid balance, as the same become due, before any fine, penalty, or cost attaches.

(2) Grantor may, at its expense and after prior notice to Beneficiary, contest by appropriate legal, administrative, or other proceedings conducted in good faith and with due diligence, the amount, validity, or application, in whole or in part, of any Imposition or lien on the Trust Property or any claim of any laborer, materialman, supplier, or vendor or lien, and may withhold payment of the same pending completion of such proceedings if permitted by law, provided that (a) such proceedings shall suspend collection from the Trust Property; (b) no part of or interest in the Trust Property will be sold, forfeited, or lost if Grantor pays the amount or satisfies the condition being contested, and Grantor would have the opportunity to do so in the event of Grantor's failure to prevail in the contest; (c) neither Beneficiary nor Trustee shall, by virtue of such permitted contest, be exposed to any risk of liability for which Grantor has not furnished additional security as provided in clause (d) below; and (d) Grantor shall have furnished to Beneficiary cash, corporate surety bond, or other additional security in respect of the claim being contested or the loss or damage that may result from Grantor's failure to prevail in such contest in an amount sufficient to discharge the Imposition and all interest, costs, attorney fees, and other charges that may accrue in connection with the Imposition. Grantor shall promptly satisfy any final judgment.

(3) Grantor shall furnish to Beneficiary, promptly on request, satisfactory evidence of the payment of all Impositions. Beneficiary is hereby authorized to request and receive from the responsible governmental and nongovernmental personnel written statements with respect to the accrual and payment of all Impositions.

1.10 Inspection of the Trust Property. Grantor shall permit Trustee, Beneficiary, and their authorized representatives to enter and inspect the Trust Property and the improvements all at such reasonable times as Beneficiary or Trustee may choose.

1.11 Insurance.

(1) *Property and Other Insurance.* Grantor shall obtain and maintain in full force and effect during the term of this Deed of Trust (a) all-risk property insurance together with endorsements for replacement cost, inflation adjustment, malicious mischief, and sprinkler damage coverages, all in amounts not less than the full replacement cost of all improvements, without reduction for coinsurance; (b) comprehensive general liability insurance, including liabilities assumed under contract, with limits, coverages, and risks insured acceptable to Beneficiary, and in no event less than \$1,000,000 combined single limit coverage. In addition, Grantor shall obtain and maintain all such other insurance coverages, which at the time are commonly carried for similar property, in such amounts as Beneficiary may require. Notwithstanding the provisions of this subparagraph (1), the parties agree that the property insured is "ranch" property and improvements will be insured in the manner and for amounts customary for ranch properties. Residences are insured with replacement cost coverage. Certain "out buildings" are not insured. Other buildings are insured at "fair market value." Grantor will continue the practice that has been in place while Beneficiary was a shareholder in Grantor.

(2) *Insurance Companies and Policies.* All insurance shall be written by a company or companies reasonably acceptable to Beneficiary; shall contain a long-form mortgagee clause in favor of Beneficiary with loss proceeds under any policy payable to Beneficiary, subject to the terms of this Deed of Trust and the rights of any superior mortgagee or trust deed beneficiary or as provided in Section 6.10 below; shall require 30 days' prior written notice to Beneficiary of cancellation or reduction in coverage; shall contain waivers of subrogation and endorsements that no act or negligence of Grantor or any occupant, and no occupancy or use of the Trust Property for purposes more hazardous than permitted by the terms of the policy will affect the validity or enforceability of such insurance as against Beneficiary; shall be in full force and effect on the date of this Deed of Trust; and shall be accompanied by proof of premiums paid for the current policy year. Beneficiary shall be named as additional insured on all liability policies. Grantor shall forward to Beneficiary, on request, certificates evidencing the coverages required under this Deed of Trust and copies of all policies.

(3) *Blanket Policy.* If a blanket policy is issued, a certified copy of such policy shall be furnished together with a certificate indicating that the Trust Property and Beneficiary are insured under such policy in the proper designated amount.

(4) *Insurance Proceeds.* All proceeds from any insurance on the Trust Property shall be used in accordance with the provisions of Section 1.13.

1.12 Assignments of Policies on Foreclosure. In the event of foreclosure of the lien of this Deed of Trust or other transfer of title, or assignment of the Trust Property in whole or in part, all right, title, and interest of Grantor in and to all policies of insurance procured under Section 1.11 shall inure to the benefit of and pass to the successors in interest of Grantor or the purchaser or grantee of all or any part of the Trust Property.

1.13 Casualty/Loss Restoration.

(1) After the occurrence of any casualty to the Trust Property, whether or not required to be insured against as provided in this Deed of Trust, Grantor shall give prompt written notice of the casualty to Beneficiary, specifically describing the nature and cause of such casualty and the extent of the damage or destruction to the Trust Property. Beneficiary may make proof of loss if it is not made promptly and to Beneficiary's satisfaction by Grantor.

(2) Subject to rights of any superior mortgagee or trust deed beneficiary as provided in Section 6.10 below, Grantor assigns to Beneficiary all insurance proceeds that Grantor may be entitled to receive with respect to any casualty. All insurance proceeds shall be held by Beneficiary as collateral to secure performance of the Obligations secured by this Deed of Trust. Grantor may elect either to restore or not to restore the damaged improvements. If Grantor shall repair or replace the damaged improvements in a manner satisfactory to Beneficiary, and provided that Grantor is not in default under the Deed of Trust, Beneficiary shall, on satisfactory proof of performance of work, pay or reimburse Grantor from the insurance proceeds for the reasonable cost or repair or restoration completed. If Grantor notifies Beneficiary in writing that, pursuant to its rights under this Deed of Trust, it elects not to repair or replace the damaged Improvements, Beneficiary shall apply the proceeds not to be so used, toward payment of all or part of the indebtedness secured by this Deed of Trust in such order as Beneficiary may determine. Any insurance proceeds that have not been paid out within one year after their receipt for the repair, replacement, or restoration of the Trust Property shall forthwith be applied by Beneficiary toward payment of all or part of the indebtedness secured by this Deed of Trust in such order as Beneficiary may determine.

1.14 Actions to Protect Trust Property; Reserves. If Grantor shall fail to obtain the insurance required by Section 1.11, make the payments required by Section 1.09 (other than payments that Grantor is contesting in accordance with Section 1.09(2)), or perform or observe any of its other covenants or agreements under this Deed of Trust, Beneficiary may, without obligation to do so, obtain or pay the same or take other action that it deems appropriate to remedy such failure. All sums, including reasonable attorney fees, so expended or expended to maintain the lien or estate of this Deed of Trust or its priority, or to protect or enforce any of Beneficiary's rights, or to recover any indebtedness secured by this Deed of Trust, shall be a lien on the Trust Property, shall be secured by this Deed of Trust, and shall be paid by Grantor on demand, together with interest 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 default.

1.15 Estoppel Certificates. Grantor, within five days of the request, shall furnish Trustee and Beneficiary a written statement, duly acknowledged, of the amount of the Obligations secured by this Deed of Trust and whether any offsets or defenses exist against such

Obligations. If Grantor shall fail to furnish such a statement within the time allowed, Beneficiary shall be authorized, as Grantor's attorney-in-fact, to execute and deliver such statement. On request, Grantor shall also use its best efforts to obtain and deliver to Beneficiary a written certificate from each lessee of all or any portion of the Trust Property that its lease is in effect, that there are no defaults by the lessor under the lease, and that rent is not paid more than 30 days in advance.

ARTICLE II Condemnation

2.01 Condemnation.

(1) Should any part of or interest in the Trust Property be taken or damaged by reason of any public improvement, eminent domain, condemnation proceeding, or in any similar manner (a "Condemnation"), or should Grantor receive any notice or other information regarding such action, Grantor shall give immediate notice of such action to Beneficiary.

(2) Subject to the rights of any superior mortgagee or trust deed beneficiary as provided in Section 6.10 below, Beneficiary shall be entitled to all compensation, awards, and other payments or relief ("Condemnation Proceeds") up to the full amount of the Obligations, and shall be entitled, at his option, to commence, appear in, and prosecute any Condemnation proceeding in his own or Grantor's name and make any compromise or settlement in connection with such Condemnation. If the Trust Property is taken in its entirety by condemnation, all Obligations secured by this Deed of Trust, at Beneficiary's election, shall become immediately due and collectible.

(3) Beneficiary may, at his sole option, apply the Condemnation Proceeds to the reduction of the Obligations in such order as Beneficiary may determine, or apply all or any portion of the Condemnation Proceeds to the cost of restoring and improving the remaining Trust Property. If Beneficiary elects to apply the Condemnation Proceeds to restoration and improvement, the proceeds shall be held by Beneficiary and shall be released only on such terms and conditions as Beneficiary shall require in his sole discretion, including but not limited to prior approval of plans and release of liens. No Condemnation Proceeds shall be released if Grantor is in default under this Deed of Trust.

ARTICLE III Assignment of Leases, Rents, Issues, and Profits

3.01 Assignment. Grantor assigns and transfers to Beneficiary (1) all leases, subleases, licenses, rental contracts, and other agreements, whether now existing or hereafter arising, and relating to the occupancy or use of all or any portion of the Trust Property, including all modifications, extensions, and renewals thereof (the "Leases"), and (2) all rents, revenues, issues, profits, income, proceeds, and benefits derived from the Trust Property and the lease, rental, or license of all or any portion thereof, including but not limited to lease and security deposits (collectively, the "Rents"). This assignment is intended by Grantor and Beneficiary to create a present and unconditional assignment to Beneficiary, subject only to the license set forth in Section 3.04 below.

3.02 Rights of Beneficiary. Subject to the provisions of Section 3.04 below giving Grantor a revocable, limited license, Beneficiary shall have the right, power, and authority to:

(1) Notify any and all tenants, renters, licensees, and other obligors under any of the Leases that the same have been assigned to Beneficiary and that all Rents are to be paid directly to Beneficiary, whether or not Beneficiary shall have foreclosed or commenced foreclosure proceedings against the Trust Property, and whether or not Beneficiary has taken possession of the Trust Property;

(2) Discount, settle, compromise, release, or extend the time for payment of, any amounts owing under any of the Leases and any Rents, in whole or in part, on terms acceptable to Beneficiary;

(3) Collect and enforce payment of Rents and all provisions of the Leases, and to prosecute any action or proceeding, in the name of Grantor or Beneficiary, with respect to any and all Leases and Rents; and

(4) Exercise any and all other rights and remedies of the lessor in connection with any of the Leases and Rents.

3.03 Application of Receipts. Beneficiary shall have the right, power, and authority to use and apply any Rents received under this Deed of Trust (1) for the payment of any and all costs and expenses incurred in connection with enforcing or defending the terms of this assignment or the rights of Beneficiary, and in collecting any Rents; and (2) for the operation and maintenance of the Trust Property and the payment of all costs and expenses in connection therewith, including but not limited to the payment of utilities, taxes, assessments, governmental charges, and insurance. After the payment of all such costs and expenses, and after Beneficiary shall have set up such reserves as he deems necessary in his sole discretion for the proper management of the Trust Property, Beneficiary shall apply all remaining Rents collected and received by it to the reduction of the Obligations in such order as Beneficiary shall determine. The exercise or failure by Beneficiary to exercise any of the rights or powers granted in this assignment shall not constitute a waiver of default by Grantor under this Deed of Trust, the Note, the Redemption Agreement or any related documents.

3.04 License. Beneficiary hereby grants to Grantor a revocable license to collect and receive the Rents. Such license may be revoked by Beneficiary, without notice to Grantor, on the occurrence of any event of default under this Deed of Trust, including any default by Grantor of its covenants in this Article III. Unless and until such license is revoked, Grantor agrees to apply the proceeds of Rents to the payment of the Obligations and to the payment of taxes, assessments, governmental charges, insurance premiums, and other obligations in connection with the Trust Property, and to the maintenance of the Trust Property, before using such proceeds for any other purpose. Grantor agrees to (1) observe and perform every obligation of Grantor under the Leases; (2) enforce or secure at its expense the performance of every obligation to be performed by any lessee or other party under the Leases; (3) promptly give notice to Beneficiary of any default by any such lessee or other party under any of the Leases, and promptly provide Beneficiary a copy of any notice of default given to any such lessee or other party; (4) not collect any Rents more than 30 days in advance of the time when the same

shall become due, or anticipate any other payments under the Leases, except for bona fide security deposits not in excess of an amount equal to two months' rent; (5) not further assign or hypothecate any of the Leases or Rents; (6) except with Beneficiary's prior written consent, not waive, release, or in any other manner discharge any lessee or other party from any of its obligations under any of the Leases; (7) except with Beneficiary's prior written consent, not modify or amend any of the Leases; (8) except with Beneficiary's prior written consent, not cancel, terminate, or accept surrender of any of the Leases unless Grantor shall have entered into a Lease for the space to be vacated on terms at least as favorable to Grantor, commencing within 30 days after such cancellation, termination, or surrender; (9) obtain Beneficiary's prior written approval on the form and content of all future leases and any modifications of any present or future leases; (10) deliver copies of all present and future leases to Beneficiary promptly; and (11) appear in and defend, at Grantor's sole cost and expense, any action or proceeding arising out of or in connection with the Leases or the Rents.

3.05 Limitation of Beneficiary's Obligations. Notwithstanding the assignment provided for in this Article III, Beneficiary shall not be obligated to perform or discharge, and Beneficiary does not undertake to perform or discharge, any obligation or liability with respect to the Leases or the Rents. This assignment shall not operate to place responsibility for the control, care, maintenance, or repair of the Trust Property on Beneficiary, or to make Beneficiary responsible for any condition of the Trust Property. Beneficiary shall be accountable to Grantor only for the sums actually collected and received by Beneficiary pursuant to this assignment. Grantor shall hold Beneficiary fully harmless from, indemnify Beneficiary for, and defend Beneficiary against any and all claims, demands, liabilities, losses, damages, and expenses, including attorney fees, arising out of any of the Leases, with respect to any of the Rents, or in connection with any claim that may be asserted against Beneficiary on account of this assignment or any obligation or undertaking alleged to arise therefrom.

3.06 Termination. The assignment provided for in this Article III shall continue in full force and effect until all the Obligations have been fully paid and satisfied. At such time, this assignment and the authority and powers herein granted by Grantor to Beneficiary shall cease and terminate.

3.07 Attorney-in-Fact. Grantor irrevocably constitutes and appoints Beneficiary, and each of his employees, agents, and attorneys, as its true and lawful attorney-in-fact, with power of substitution, to undertake and execute any and all of the rights, powers, and authorities described in this Article III with the same force and effect as if undertaken or performed by Grantor, and Grantor ratifies and confirms any and all such actions that may be taken or omitted to be taken by Beneficiary, his employees, agents, and attorneys.

ARTICLE IV

Events of Default; Remedies

4.01 Events of Default. Each of the following shall constitute an event of default under this Deed of Trust, the Redemption Agreement, and under any related agreement:

(1) *Nonpayment.* Failure of Grantor to pay any of the Obligations within 10 days after written notice from Beneficiary of any such nonpayment; provided, however, no

notice from Beneficiary shall be required for nonpayment if during the preceding 12 calendar months Beneficiary (or Beneficiary's agent) has sent notice to Grantor concerning any nonpayment under this Deed of Trust.

(2) *Breach of Other Covenants.* Failure of Grantor to perform or abide by any other covenant included in the Obligations, including without limitation those covenants in the Note, in this Deed of Trust, the Redemption Agreement, or under any related agreement.

(3) *Misinformation.* Falsity when made in any material respect of any representation, warranty, or information furnished by Grantor or its agents to Beneficiary in or in connection with any of the Obligations.

(4) *Other Default.* The occurrence of any other event of default under the Note or any of the other Obligations.

(5) *Bankruptcy.* The occurrence of any of the following with respect to Grantor, any guarantor of the Obligations, or the then-owner of the Trust Property:

- (a) appointment of a receiver, liquidator, or trustee for any such party or any of its properties;
- (b) adjudication as a bankrupt or insolvent;
- (c) filing of any petition by or against any such party under any state or federal bankruptcy, reorganization, moratorium or insolvency law;
- (d) institution of any proceeding for dissolution or liquidation;
- (e) inability to pay debts when due;
- (f) any general assignment for the benefit of creditors; or
- (g) abandonment of the Trust Property.

(6) *Transfer; Due-on-Sale; Due-on-Encumbrance.* Any sale, gift, conveyance, contract for conveyance, transfer, assignment, encumbrance, pledge, or grant of a security interest in all or any part of the Trust Property, or any interest therein, either voluntarily, involuntarily, or by the operation of law (a "Transfer"), without Beneficiary's prior written consent, shall constitute an event of default. For the purpose of clarification, and without limiting the generality of the foregoing, the occurrence at any time of any sale, conveyance, assignment, or other transfer of, or the grant of a pledge of or security interest in, any shares of the capital stock of Grantor shall be deemed to be a Transfer in violation of this paragraph. The provisions of this subsection (6) shall apply to each and every Transfer, regardless of whether or not Beneficiary has consented or waived his rights in connection with any previous Transfer. Beneficiary may attach such conditions to his consent under this subsection (6) as Beneficiary may determine in his sole discretion, including without limitation an increase in the interest rate or the payment of transfer or assumption fees, and the payment of administrative and legal fees and costs incurred by Beneficiary. Notwithstanding the provisions of this paragraph 4.01(6), Beneficiary has agreed that Grantor can refinance and/or sell all or parts of the real Trust Property on certain conditions described in the Redemption Agreement.

(7) *Certain Taxes.* For purposes of this subsection (7), *State Tax* shall mean:

- (a) A specific tax on mortgages, trust deeds, secured indebtedness, or any part of the Obligations secured by this Deed of Trust.
- (b) A specific tax on the Grantor of property subject to a trust deed that the taxpayer is authorized or required to deduct from payments on the trust deed.
- (c) A tax on property chargeable against Beneficiary or Trustee under a trust deed or holder of the note secured by the trust deed.
- (d) A specific tax (other than an income tax or a gross receipts tax) on all or any portion of the Obligations or on payments of principal and interest made by Grantor.

If any State Tax is enacted after the date of this Deed of Trust applicable to this Deed of Trust, enactment of the State Tax shall constitute an event of default, unless the following conditions are met:

- (a) Grantor may lawfully pay the tax or charge imposed by the State Tax without causing any resulting economic disadvantage or increase of tax to Beneficiary or Trustee; and
- (b) Grantor pays or agrees in writing to pay the tax or charge within 30 days after notice from Beneficiary or Trustee that the State Tax has been enacted.

4.02 Remedies in Case of Default. If an Event of Default shall occur, Beneficiary or Trustee 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) *Receiver.* Beneficiary may have a receiver appointed for the Trust Property. Beneficiary shall be entitled to the appointment of a receiver as a matter of right whether or not the apparent value of the Trust Property exceeds the amount of the indebtedness secured by this Deed of Trust. Employment by Trustee or Beneficiary shall not disqualify a person from serving as receiver. Grantor consents to the appointment of a receiver at Beneficiary's option and waives any and all defenses to such an appointment.

(3) *Possession.* Beneficiary may, either through a receiver or as lender-in-possession, enter and take possession of all or any part of the Trust Property and use, operate, manage, and control it as Beneficiary shall deem appropriate in his sole discretion. On request after an Event of Default, Grantor shall peacefully relinquish possession and control of the Trust Property to Beneficiary or any receiver appointed under this Deed of Trust.

(4) *Rents.* Beneficiary may revoke Grantor's right to collect the Rents, and may, either itself or through a receiver, collect the same. Beneficiary shall not be deemed to be in

possession of the Trust Property solely by reason of exercise of the rights contained in this subsection (4). If Rents are collected by Beneficiary under this subsection (4), Grantor hereby irrevocably appoints Beneficiary as Grantor's attorney-in-fact, with power of substitution, to endorse instruments received in payment thereof in the name of Grantor and to negotiate such instruments and collect their proceeds. After payment of all Obligations, any remaining amounts shall be paid to Grantor and this power shall terminate.

(5) *Power of Sale.* Beneficiary may direct Trustee, and Trustee shall be empowered, to foreclose the Trust Property by advertisement and sale under applicable law.

(6) *Foreclosure.* Beneficiary may judicially foreclose this Deed of Trust and obtain a judgment foreclosing Grantor's interest in all or any part of the Trust Property and giving Beneficiary the right to collect any deficiency remaining due after disposition of the Trust Property.

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

(8) *Abandonment.* Beneficiary may abandon all or any portion of the Trust Property by written notice to Grantor.

4.03 Sale. In any sale under this Deed of Trust or pursuant to any judgment, the Trust Property, to the extent permitted by law, may be sold as an entirety or in one or more parcels and in such order as Beneficiary may elect, without regard to the right of Grantor, any person claiming under Grantor, or any guarantor or surety to the marshalling of assets. The purchaser at any such sale shall take title to the Trust Property or the part thereof so sold, free and clear of the estate of Grantor, the purchaser being hereby discharged from all liability to see to the application of the purchase money. Any person, including Beneficiary, his agents, and employees, may purchase at any such sale. Beneficiary and each of his agents and employees are irrevocably appointed Grantor's attorney-in-fact, with power of substitution, to make all appropriate transfers and deliveries of the Trust Property or any portions thereof so sold and, for that purpose, Beneficiary and his agents and employees may execute all appropriate instruments of transfer. Nevertheless, Grantor shall ratify and confirm, or cause to be ratified and confirmed, any such sale or sales by executing and delivering, or by causing to be executed and delivered, to Beneficiary or to such purchaser or purchasers all such instruments as may be advisable, in the judgment of Beneficiary, for such purpose.

4.04 Cumulative Remedies. All remedies under this Deed of Trust are cumulative and not exclusive. Any election to pursue one remedy shall not preclude the exercise of any other remedy. An election by Beneficiary to cure provided under this Deed of Trust shall not constitute a waiver of the default of any other remedy provided in this Deed of Trust. No delay or omission in exercising any right or remedy shall impair the full exercise of that or any other right or remedy or constitute a waiver of the default.

4.05 Receiver or Trustee-in-Possession. On taking possession of all or any part of the Trust Property, Trustee, Beneficiary, or a receiver may:

(1) *Management.* Use, operate, manage, control, and conduct business with the Trust Property and make expenditures for such purposes and for such maintenance and improvements as are deemed reasonably necessary.

(2) *Rents and Revenues.* Collect all rents, revenues, income, issues, and profits from the Trust Property and apply such sums to the reasonable expenses of use, operation, management, maintenance, and improvements.

(3) *Construction.* At its option, complete any construction in progress on the Trust Property, and in that connection pay bills, borrow funds, employ contractors, and make any changes in plans and specifications as it deems appropriate.

(4) *Additional Indebtedness.* If the revenues produced by the Trust Property are insufficient to pay expenses, Beneficiary, Trustee, or the receiver may borrow or advance such sums on such terms as it deems reasonably necessary for the purposes stated in this Section. All advances shall bear interest, unless otherwise provided, at the rate set forth in the Note, and repayment of such sums shall be secured by this Deed of Trust.

4.06 Application of Proceeds. All proceeds realized from the exercise of the rights and remedies under this Section IV shall be applied as follows:

(1) *Costs and Expenses.* To pay all costs of exercising such rights and remedies, including the costs of maintaining and preserving the Trust Property, the costs and expenses of any receiver or lender-in-possession, the costs of any sale, and the costs and expenses provided for in Section 6.07 below.

(2) *Indebtedness.* To pay all Obligations, in such order as Beneficiary shall determine in its sole discretion.

(3) *Surplus.* The surplus, if any, remaining after satisfaction of all the Obligations 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 to the surplus.

4.07 Deficiency. No sale or other disposition of all or any part of the Trust Property pursuant to this Section IV shall be deemed to relieve Grantor of any of the Obligations, except to the extent that the proceeds are applied to the payment of such Obligations. If the proceeds of a sale, a collection, or other realization of or on the Trust Property are insufficient to cover the costs and expenses of such realization and the payment in full of the Obligations, Grantor shall remain liable for any deficiency to the fullest extent permitted by law.

4.08 Waiver of Stay, Extension, Moratorium, and Valuation Laws. To the fullest extent permitted by law, Grantor waives the benefit of any existing or future stay, extension, or moratorium law that may affect observance or performance of the provisions of this Deed of

Trust and any existing or future law providing for the valuation or appraisal of the Trust Property prior to any sale.

ARTICLE V

Provisions Related to Refinance and Parcel Release

5.01 Refinance. At the time of execution, part or all of the Real Property is encumbered by a Mortgage or Trust Deed in favor of MetLife or a related entity (the "MetLife Encumbrance"). That encumbrance is superior to the lien created by this instrument. It is in the best interest of Grantor and Beneficiary that the MetLife Encumbrance be satisfied or refinanced. Grantor and Beneficiary will take such steps as reasonably necessary to facilitate such a satisfaction or refinance. Those steps may include sale of one or more parcels of the Real Property with application of the proceeds to satisfy the MetLife Encumbrance, or execution of a new encumbrance with MetLife or a successor lender on more favorable terms in a position superior to that of Beneficiary. So long as Beneficiary's security is not diminished by such steps, and Grantor does not receive cash consideration in addition to the adjustment of the MetLife Encumbrance, Beneficiary shall agree to any such sale or refinance.

5.02 Parcel Release. Grantor and Beneficiary understand that Grantor intends to satisfy part of its Obligations by selling part of the Real Estate securing the Obligations. Beneficiary's cooperation will be required in releasing parcels from the Real Estate for this purpose. Grantor may enter into such arms length sales transactions as it deems appropriate to sell parcels of the Real Property, and Beneficiary will agree to such sales so long as they meet the following conditions:

- (1) Either, the sale is an "arms length sale," on terms and to parties fully disclosed to Beneficiary, or, the sale is at a price supported by an MAI Appraisal;
- (2) One-half of the consideration received by Grantor for the sale shall be applied to the amount owed on the Note. The consideration received by the Beneficiary shall be the amount received after payment of costs of sale (including broker's commissions, escrow fees, recording costs), proration of real property taxes (including irrigation district assessments and similar charges), and payments to holders of encumbrances senior to this Deed of Trust;
- (3) If the sale is an installment sale, collection of the installment payments shall be made through AmeriTitle with instructions that one-half of each installment be paid to Grantor through the escrow account established to receive payments on the Note.
- (4) Payments made to Grantor resulting from the sales of parcels as described in this Article V, shall be applied to the next successive installment payment due. For example, if a sale results in payment to Grantor of \$24,000 on May 1, the amount due on the following July 10, shall be \$26,000. If that sale results in a payment to Grantor of \$123,000 on May 1, no payment shall be due until July 10 of the next year. On July 10 of that next year, the amount due shall be \$27,000.

5.03 Attorney-in-Fact to Execute Documents. Wilson C. Muhlheim is appointed Attorney-in-Fact to execute documents on behalf of Beneficiary with respect to matters related to this Article V. In the event that Wilson C. Muhlheim becomes unable to serve, then a person will be appointed by the parties in the future. Mr. Muhlheim's inability to serve shall be conclusively established if he ceases to be a member of the Oregon State Bar, becomes an inactive member of the Oregon State Bar, or is deceased. Costs related to the Attorney-in-Fact shall be borne by the Beneficiary.

ARTICLE VI General Provisions

6.01 Time Is of the Essence. Time is of the essence with respect to all covenants and Obligations of Grantor under this Deed of Trust.

6.02 Reconveyance by Trustee. At any time on the request of Beneficiary, payment of Trustee's fees, if any, and presentation of this Deed of Trust, without affecting liability of any persons for the payment of the Obligations, Trustee may reconvey, without warranty, all or any part of the Trust Property. The grantee in any reconveyance may be described as the "person or persons legally entitled thereto," and the recitals therein of any facts shall be conclusive proof of the truthfulness thereof.

6.03 Notice. Except as otherwise provided in this Deed of Trust, all notices pertaining to this Deed of Trust shall be in writing and may be delivered by hand, or mailed by first-class, registered, or certified mail, return receipt requested, postage prepaid, and addressed to the appropriate party at its address set forth at the outset of this Deed of Trust. 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 shall be deemed to have been given when actually received.

6.04 Substitute Trustee. In the event of dissolution or resignation of Trustee, Beneficiary may substitute one or more trustees to execute the trust hereby created, and the new trustee(s) shall succeed to all the powers and duties of the prior trustee(s).

6.05 Deed of Trust Binding on Successors and Assigns. This Deed of Trust shall be binding on and inure to the benefit of the successors and assigns of Grantor, Trustee, and Beneficiary. If the Trust Property or any portion thereof shall at any time be vested in any person other than Grantor, Beneficiary shall have the right to deal with such successor regarding this Deed of Trust, the Trust Property, and the Obligations in such manner as Beneficiary deems appropriate in his sole discretion, without notice to or approval by Grantor and without impairing Grantor's liability for the Obligations.

6.06 Indemnity. Grantor shall hold Beneficiary and Trustee and their respective directors, officers, employees, agents, and attorneys, harmless from and indemnify them for any and all claims, demands, damages, liabilities, and expenses, including but not limited to attorney fees and court costs, arising out of or in connection with Trustee's or Beneficiary's interest under this Deed of Trust, except Grantor shall not be liable for acts performed by Beneficiary or Trustee in violation of applicable law.

6.07 Expenses and Attorney Fees. If Beneficiary refers any of the Obligations to a lawyer 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 nonjudicial action, suit, or proceeding in connection with any of the Obligations or the Trust Property (including but not limited to proceedings under federal bankruptcy law, eminent domain, under probate proceedings, or in connection with any state or federal tax lien), and a lawyer is employed by Beneficiary to (1) appear in any such action, suit, or proceeding, or (2) reclaim, seek relief from a judicial or statutory stay, sequester, protect, preserve, or enforce Beneficiary's interests, then in any such event Grantor shall pay reasonable attorney fees, costs, and expenses incurred by Beneficiary or his lawyer in connection with the above-mentioned events or any appeals related to such events, including but not limited to costs incurred in searching records, the cost of title reports, and the cost of surveyors' reports. Such amounts shall be secured by this Deed of Trust and, if not paid on demand, shall bear interest at the rate specified in the Note.

6.08 Applicable Law. The Deed of Trust and the validity, interpretation, performance, and enforcement of the Deed of Trust shall be governed by the laws of the state of Oregon.

6.09 Captions. The captions to the sections and paragraphs of this Deed of Trust are included only for the convenience of the parties and shall not have the effect of defining, diminishing, or enlarging the rights of the parties or affecting the construction or interpretation of any portion of this Deed of Trust.

6.10 Rights of Prior Mortgagee. If all or any portion of the Trust Property is subject to a superior mortgage or trust deed specifically permitted under Exhibit B, the rights of Beneficiary with respect to insurance and condemnation proceeds as provided in Sections 1.14 and 2.01, and all other rights granted under this Deed of Trust that have also been granted to such a superior mortgagee or trust deed beneficiary, shall be subject to the rights of the superior mortgagee or trust deed beneficiary. Grantor hereby authorizes all such superior mortgagees and beneficiaries, on satisfaction of the indebtedness secured by their mortgage or trust deed, to remit all remaining insurance or Condemnation proceeds and all other sums held by them to Beneficiary to be applied in accordance with this Deed of Trust.

6.11 Person Defined. As used in this Deed of Trust, the word *person* shall mean any natural person, partnership, trust, corporation, or other legal entity of any nature.

6.12 Severability. If any provision of this Deed of Trust shall be held to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect any other provisions of this Deed of Trust, and such other provisions shall be construed as if the invalid, illegal, or unenforceable provision had never been contained in the Deed of Trust.

6.13 Entire Agreement. This Deed of Trust contains the entire agreement of the parties with respect to the Trust Property. No prior agreement, statement, or promise made by any party to this Deed of Trust that is not contained herein shall be binding or valid.

6.14 Standard for Discretion. If this Deed of Trust is silent on the standard for any consent, approval, determination, or similar discretionary action, the standard shall be sole and unfettered discretion as opposed to any standard of good faith, fairness, or reasonableness.

6.15 ORS 93.040 Warning. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. 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 THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, 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 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

6.16 Amendments. This Deed of Trust, together with any related documents referenced herein, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Deed of Trust. No alteration of or amendment to this Deed of Trust shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alternation or amendment.

6.17 Waivers and Consents. Beneficiary shall not be deemed to have waived any rights under this Deed of Trust (or under the related documents referenced herein) unless such waiver is in writing and signed by Beneficiary. No delay or omission on the part of Beneficiary in exercising any right shall operate as a waiver of such right or any other right. A waiver by any party of a provision of this Deed of Trust shall not constitute a waiver of or prejudice the party's right otherwise to demand strict compliance with that provision or any other provision. No prior waiver by Beneficiary, nor any course of dealing between Beneficiary and Grantor, shall constitute a waiver of any of Beneficiary's rights or any of Grantor's obligations as to any future transactions. Whenever consent by Beneficiary is required in this Deed of Trust, the granting of such consent by Beneficiary in any instance shall not constitute continuing consent to subsequent instances where such consent is required.

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GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS DEED OF TRUST AND AGREES TO ITS TERMS.

GRANTOR:

W.C. RANCH, INC., an Oregon Corporation

DATED: May 9, 2012

By: Nancy L. Dey, President
Nancy L. Dey, President

STATE OF Oregon)
) ss
County of Klamath)

9th This instrument was acknowledged before me, the undersigned Notary Public, on this
day of May, 2012, by Nancy L. Dey as President of the Grantor.



Kristi L. Redd
Notary Public for Oregon
My commission expires: 11/16/2015

REQUEST FOR FULL RECONVEYANCE
(To be used only when Obligations have been paid in full)

To: _____, Trustee

The undersigned is the legal owner and holder of all Indebtedness secured by this Deed of Trust. All sums secured by this Deed of Trust have been fully paid and satisfied. You are hereby directed, upon payment to you of any sums owing to you under the terms of this Deed of Trust or pursuant to any applicable statute, to cancel the Credit Agreement secured by this Deed of Trust (which is delivered to you together with this Deed of Trust), and to reconvey, without warranty, to the parties designated by the terms of this Deed of Trust, the estate now held by you under this Deed of Trust. Please mail the reconveyance and Related Documents to:

Beneficiary:

Date: _____

By: _____
Name: _____
Its: _____

EXHIBIT "A"
LEGAL DESCRIPTION

The following described property in Township 40 South, Range 10 East of the Willamette Meridian, Klamath County, Oregon:

Section 21: Government Lot 4

Section 22: NW1/4 NW1/4; S1/2 NW1/4; NW1/4 SW1/4, EXCEPTING that portion Southerly of Hill Road; E1/2 SW1/4; W1/2 SE1/4; SW1/4 SW1/4

Section 23: E1/2 W1/2; W1/2 NE1/4 and NW1/4 SE1/4

Section 26: NE1/4 NW1/4

Section 27: Government Lots 5, 6, 7, 8 and 9; SE1/4 SE1/4; N1/2 NW1/4; SE1/4 NW1/4; W1/2 NE1/4

SAVE AND EXCEPTING THEREFROM the following: Beginning at a 5/8 inch iron pin marking the Northeast corner of the NW1/4 NE1/4 of said Section 27; thence South 00° 33' 36" West, along the East line of said NW1/4 NE1/4 of said Section 27, 1,382.64 feet, more or less, to the Northerly right of way line of Hill Road, a county road; thence Northwesterly along the Northerly right of way line of said Hill Road 1300 feet, more or less, to a one-inch iron pin at the intersection of said right of way line with a fence running Northeast; thence along said fence and the Northeasterly projection thereof North 42° 12' 33" East 542.46 feet to a one-inch iron pin set in the center of a dirt road; thence leaving said fence line North 35° 05' 31" East 392.34 feet to a point on the North line of said Section 27, said point being marked by a one-inch iron pin; thence North 89° 58' 17" East along the said North line of said Section 27, 420.87 feet to the point of beginning.

AND ALSO SAVING AND EXCEPTING THEREFROM a parcel of land situated in the SE1/4 SE1/4, in Lot 5, and in Lot 6 all being in Section 27, Township 40 South, Range 10 East of the Willamette Meridian, and being more particularly described as follows:

Beginning at a point where the South line of said Section 27 intersects the Westerly right of way line of the Burlington Northern Railroad, from which the Southeast corner of said Section 27 bears South 89° 38' 24" East, 1097.43 feet; thence North 28° 45' 24" West, along said right of way line, 1029.75 feet; thence South 61° 14' 36" West 50.00 feet; thence North 28° 45' 24" West, 655.60 feet; thence along the arc of a 5629.65 foot radius curve to the left (delta equals 01° 10' 05"), 114.77 feet to the South line of a drainage easement; thence South 57° 42' West along the South line of said drainage easement, 275.64 feet, more or less, to a point on the mean high water line of the left bank of Lost River; thence Southeast along said mean high water line to a point on the South line of said Section 27; thence South 89° 38' 24" East, along said South line 751.73 feet, more or less, to the point of beginning.

AND ALSO EXCEPTING THEREFROM that portion of the SE1/4 SE1/4 and Government Lot 5 lying east of the easterly right of way line of the Burlington Northern Railroad; that portion of Government Lot 6 lying east of the easterly right of way line of the Burlington Northern Railroad and south of the U.S.B.R. No. 31 Drain all in Section 27, Township 40 South, Range 10 East of the Willamette Meridian, Klamath County, Oregon. (PLA 18-11)

Section 28: Government Lot 4

EXCEPTING FROM the above-described lands, Right of Way for Great Northern Railroad as set out in Transcript of Decree dated June 6, 1931, recorded November 2, 1931 in Volume 96, Page 246 Decd Records of Klamath County, Oregon.

ALSO EXCEPTING THEREFROM that portion lying within public roads and highways and within the USBR canals and drains.
