

Returned at Counter

AmeriTitle
MTC 230241 AM

2019-004402
Klamath County, Oregon



04/25/2019 10:50:18 AM

Fee: \$197.00

WHEN RECORDED RETURN TO:

Royce Ann Simmons
Harvest Capital Company
P.O. Box 579
Canby, OR 97013

(space above reserved for recorder's use)

**DEED OF TRUST, ASSIGNMENT OF RENTS AND SECURITY AGREEMENT AND
FIXTURE FILING**

DATED: April 18, 2019

FROM: MDLN OF OREGON, LLC, an Oregon limited liability company
P.O. Box 417
Malin, Oregon 97632 TRUSTOR

TO: AMERITITLE, INC.
300 Klamath Ave.
Klamath Falls, OR 97601 TRUSTEE

FOR THE
BENEFIT OF: HARVEST CAPITAL COMPANY
P.O. Box 579
Canby, OR 97013 BENEFICIARY

MDLN OF OREGON, LLC, an Oregon limited liability company, is the owner of the real property in Klamath County, Oregon described on the attached Exhibit A.

Beneficiary has loaned or agreed to loan to Trustor, the sum of \$2,700,000.00 on certain terms and conditions. Such amount will be repayable with interest according to the terms of a Promissory Note given to evidence such indebtedness, in such amount, dated the same as this Deed of Trust, under which the final payment of principal and interest will be due on July 1, 2034. Such note, and any note or notes given in renewal, modification, substitution or addition to the promissory note originally issued, are referred to as "Note." (This limitation of amount does not include interest and other fees and charges validly made pursuant to this Deed of Trust. Also, this limitation does not apply to advances made under the terms of this Deed of Trust to protect Beneficiary's security and to perform any of the covenants contained in this Deed of Trust.)

The term "Indebtedness" as used in this Deed of Trust ("Deed of Trust") shall mean (a) the principal and interest payable under the Note, including without limitation any and all future advances made by Lender thereunder, (b) any future amounts that Beneficiary may in its discretion loan to Trustor, with interest thereon, and any and all additional indebtedness of Trustor to Beneficiary, now existing or

hereafter created, matured or unmatured, direct or contingent and any renewals and extensions thereof and substitutions therefor, whether or not such other indebtedness is incurred or becomes payable under the provisions hereof and whether as future advances or otherwise, even though the indebtedness of Trustor to Beneficiary from time to time be reduced below the maximum amount above stated or be paid in full, (c) any amounts expended or advanced by Beneficiary to discharge obligations of Trustor or expenses incurred by Beneficiary to enforce obligations of Trustor, as permitted under this Deed of Trust, with interest thereon as provided below, and (d) any amounts with interest thereon at the rate specified in Section 12.4 below, payable by Trustor to Beneficiary under the Environmental Indemnity Agreement executed by Trustor this same date (the "**Environmental Agreement**") to the extent Beneficiary specifically elects by written notice to Trustor to include such amounts in the Indebtedness.

Now, therefore, to secure payment of the Indebtedness and performance of all obligations of Trustor under this Deed of Trust, Trustor hereby irrevocably grants, assigns, transfers, pledges, and conveys to Trustee IN TRUST WITH POWER OF SALE, RIGHT OF ENTRY AND POSSESSION to and for the benefit of Beneficiary, all of Trustor's right, title, and interest, now or hereafter acquired, the following:

(1) The real property in Klamath County, Oregon described on attached Exhibit A (the "**Real Property**").

(2) All furnishings, fixtures (including trade fixtures), supplies, equipment and inventory used for the production of water on the Real Property or for the irrigation or drainage thereof, all livestock handling equipment located on or used in connection with the Real Property, including, but not limited to, fences, windmills, stock tanks and stock watering equipment, corrals, portable fence panels and scales (but excluding self-propelled motor driven vehicles and farm implements customarily towed or attached thereto) and all mobile and modular homes on the Real Property and all other equipment on or used in connection with the Real Property, whether now owned or hereafter acquired, and whether now existing or hereafter arising, and all accessions, parts, additions, replacements and substitutions for any of such property, and all proceeds (including insurance proceeds) from the sale or other disposition of any of such property including, without limitation, the items described on attached Exhibit B (the "**Equipment**").

(3) All water, water rights, ditches and ditch rights, any permits, licenses, certificates or shares of stock evidencing any such water or ditch rights, and any such rights acquired in the future, which entitle Trustor to use water for any purpose upon the Real Property including, without limitation, all rights of Trustor or the Real Property in, and all rights of Trustor or the Real Property to, obtain water from the Langell Valley Irrigation District, the Horsefly Irrigation District, the Malin Irrigation District, the Klamath Irrigation District and the water rights described on attached Exhibit C (the "**Water Rights**").

Trustor presently assigns to Beneficiary all of Trustor's right, title and interest in and to all rents, revenues, income, issues and profits (the "**Income**") from the Real Property, Equipment and Water Rights whether now or hereafter due.

The real and personal property described above are referred to as the "**Property**."

Trustor grants Beneficiary a security interest in the Income, Equipment, Water Rights and all other personal property comprising the Property, and all proceeds thereof (the "**Personal Property**").

This Deed of Trust is given and accepted on the following terms and conditions which Trustor will promptly and faithfully observe and perform:

1. PAYMENT AND PERFORMANCE. Trustor shall pay to Beneficiary promptly when due all amounts payment of which is secured by this Deed of Trust and shall strictly perform all obligations imposed upon Trustor by this Deed of Trust.

2. POSSESSION AND MAINTENANCE OF THE PROPERTY.

2.1 Possession. Until in default, Trustor may remain in possession and control of and operate and manage the Property and collect the Income from the Property.

2.2 Duty to Maintain. Trustor shall maintain the Property in good condition and promptly perform all repairs and maintenance necessary to preserve its value. The Real Property shall be cultivated in accordance with good husbandry practices and all farming and ranching operations shall be conducted in such a manner as to prevent deterioration of the Property.

2.3 Nuisance, Waste. Trustor shall not conduct or permit any nuisance and shall not commit or suffer any strip or waste on the Property.

2.4 Removal of Improvements. Trustor shall not demolish or remove any improvements from the Property without the prior written consent of Beneficiary. Beneficiary shall consent if Trustor makes arrangements satisfactory to Beneficiary to replace any improvement which Trustor proposes to remove with one of at least equal value. "Improvements" shall include all existing and future buildings, structures and other fixtures and improvements now or hereafter installed in or attached to the Real Property, including but not limited to fences, corrals, scales, mobile homes, silos, storage facilities, trellises, greenhouses, hoop houses, irrigation equipment and solar panels.

2.5 Beneficiary's Right to Enter. Beneficiary and its agents and representatives may enter upon the Property at all reasonable times to attend to Beneficiary's interest and to inspect the Property and to inspect any and all financial and other records relating to Trustor's operations on the Property.

2.6 Compliance with Governmental Requirements. Trustor shall promptly comply with all laws, ordinances and regulations of all governmental authorities applicable to the use or occupancy of the Property. Trustor may contest in good faith any such law, ordinance or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Beneficiary's interest in the Property is not jeopardized.

2.7 Duty to Protect. Trustor shall do all other acts, in addition to those set forth in this Deed of Trust, that from the character and use of the Property are reasonably necessary to protect and preserve the security.

2.8 Water Rights. All existing water rights benefiting the Property shall be maintained by Trustor and applied to beneficial use so as to maintain the validity and priority of such rights. Trustor shall not sell, transfer, assign, encumber, convey, or surrender any of the water rights nor, without Beneficiary's written consent, agree with any third party to any period of nonuse of the same.

3. TAXES AND LIENS.

3.1 Payment. Trustor shall pay when due all taxes and assessments levied against or on account of the Property, and shall pay when due all claims for work done on or for services rendered or material furnished to the Property. Trustor shall maintain the Property free of any liens having priority over or equal to the interest of Beneficiary under this Deed of Trust, except for the lien of taxes and assessments not due, and except as otherwise provided in Section 3.2.

3.2 Right to Contest. Trustor may withhold payment of any tax, assessment or claim in connection with a good faith dispute over obligation to pay, so long as Beneficiary's interest in the Property is not jeopardized. If the Property is subjected to a lien which is not discharged within 15 days, Trustor shall deposit with Beneficiary cash, a sufficient corporate surety bond or other security satisfactory to Beneficiary in an amount sufficient to discharge the lien plus any interest, costs, attorneys' fees or other charges that could accrue as a result of foreclosure or sale under the lien. In any contest proceedings, Trustor will defend itself and Beneficiary and will name Beneficiary as an additional obligee under any surety bond, and Trustor shall satisfy any final adverse judgment before enforcement against the Property.

3.3 Evidence of Payment. Trustor shall promptly furnish evidence of payment of taxes and assessments to Beneficiary on its demand and shall authorize the appropriate county official to deliver to Beneficiary at any time a written statement of the taxes and assessments against the Property, and shall pay the expense of a tax reporting service for the Property if required by Beneficiary.

3.4 Notice of Construction. Trustor shall notify Beneficiary at least 15 days before any work is commenced, any services are furnished or any materials are supplied to the Property if a construction lien could be asserted on account of the work, services or materials and the cost exceeds \$10,000. On Beneficiary's request, Trustor will promptly furnish advance assurances satisfactory to Beneficiary that Trustor can and will pay the cost of such improvements.

3.5 Farm or Forest Classification. Trustor agrees to maintain the farm or forest use classification of the Property on the tax rolls, and not to allow any act or omission which would disqualify the Property for assessment as farm or forest lands.

4. PROPERTY DAMAGE INSURANCE.

4.1 Maintenance of Insurance. Trustor shall procure and maintain such policies of insurance as Beneficiary may reasonably require. This shall include policies of fire insurance with standard extended coverage endorsements covering all improvements on the Property for their full insurable value, in an amount sufficient to avoid application of any coinsurance clause and with loss payable to Beneficiary, and comprehensive general liability insurance in such coverage amounts as Beneficiary may request, with Beneficiary as an additional insured and designated as mortgagee. Policies shall be written in amounts, in form, on terms and with companies reasonably acceptable to Beneficiary. Trustor shall deliver to Beneficiary certificates of coverage from each insurer containing a stipulation that coverage will not be canceled or diminished without a minimum of 10 days' written notice to Beneficiary. Should the Real Property be located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area, Trustor agrees to obtain and maintain Federal Flood Insurance for the unpaid balance of the Note, up to the maximum policy limits set under the National Flood Insurance Program.

4.2 Application of Proceeds. Trustor shall promptly notify Beneficiary of any loss or damage to the Property which exceeds \$2,500. Beneficiary may make proof of loss if Trustor fails to do so within 15 days of the casualty. All proceeds of any insurance on the Property shall be held by Beneficiary as part of the Property. If Trustor elects to restore the Property, Trustor shall repair or replace the damaged or destroyed improvements in a manner satisfactory to Beneficiary. Upon satisfactory proof of expenditure, Beneficiary shall pay or reimburse Trustor from the proceeds for the reasonable cost of repair or restoration. If Trustor elects not to restore the Property, Beneficiary shall retain a sufficient amount of the proceeds to pay all amounts due under this Deed of Trust, and shall pay the balance to Trustor. Any proceeds which have not been paid out within one (1) year after their receipt and which Trustor has not committed to the repair or restoration of the Property shall be used to prepay first accrued

interest and then principal of Trustor's Indebtedness. If Beneficiary holds any proceeds after payment in full of the Indebtedness, such proceeds shall be paid to Trustor.

4.3 Unexpired Insurance at Sale. Any unexpired insurance shall inure to the benefit of, and pass to, the purchaser of the Property covered by this Deed of Trust at any foreclosure sale of the Property.

4.4 Trustor's Report on Insurance. Upon request by Beneficiary, not more than once a year, Trustor shall furnish to Beneficiary a report on each existing policy of insurance showing: (a) the name of the insurer; (b) the risks insured; (c) the amount of the policy; (d) the property insured, the then current replacement value of such property, and the manner of determining value; and (e) the expiration date of the policy.

5. WARRANTIES OF TRUSTOR.

5.1 Title. Trustor warrants that Trustor holds merchantable title to the Property in fee simple free of all encumbrances other than those set forth in the title insurance policy issued to Beneficiary at closing.

5.2 Business Purpose. Trustor warrants that the proceeds of the loan evidenced by the Note and this Deed of Trust are for an organization or for business purposes, and not primarily for personal, family or household purposes.

5.3 Defense of Title. Subject to the exceptions in the paragraph above, Trustor warrants and will forever defend the title against the lawful claims of all persons. In the event any action or proceeding is commenced that questions Trustor's title or the interest of Beneficiary under this Deed of Trust, Trustor shall defend the action at its expense.

5.4 Foreign Person's Compliance. Trustor represents, warrants and covenants neither Trustor nor any partner, member or shareholder of Trustor, and no legal or beneficial interest in a partner of Trustor, is a "foreign person" under the International Investment and Trade in Services Survey Act, the Agricultural Foreign Investment Disclosure Act of 1978, the Foreign Investments in Real Property Tax Act of 1980, the amendments of such Acts or regulation promulgated pursuant to such Acts (collectively, the "**Foreign Ownership Acts**"). Trustor, and all persons holding directly or indirectly any beneficial interest in Trustor, have complied with all filing and reporting requirements of the Foreign Ownership Acts, and are not in violation thereof. Neither Trustor, any affiliate of Trustor nor any person owning an interest in Trustor is or will be an entity or person (i) that is listed in the Annex to, or otherwise subject to, the provisions of Executive Order 13224 issued September 24, 2001 ("**EO13224**"), (ii) whose name appears on the most current list of the United States Treasury Department's Office of Foreign Assets Contract ("**OFAC**") list of "Specifically Designed National and Blocked Persons," (which list may be published from time to time in various mediums including, but not limited to, the OFAC website, <http://www.treas.gov/ofac/t11sdn.pdf>) as those terms are defined in the OFAC Regulations (31 CFR Section 500, *et seq.*); (iii) who commits, threatens to commit or supports "terrorism", as that term is defined in EO13224, or (iv) who is otherwise affiliated with any entity or person listed above (any and all parties or persons described in subparts [i] – [iv] above are herein referred to as a "**Prohibited Person**"). Trustor covenants and agrees that Trustor does not, and shall not (a) conduct any business, or engage in any transaction or dealing, with any Prohibited Person, including, but not limited to the making or receiving of any contribution of funds, goods, or services, to or for the benefit of a Prohibited Person, or (b) engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in EO13224. Trustor has, in

connection with its application for the loan secured by this Deed of Trust, furnished Beneficiary with Trustor's federal tax identification number.

6. CONDEMNATION.

6.1 Application of Net Proceeds. If all or any part of the Property is condemned, and the value of the portion so condemned exceeds \$2,500, Beneficiary may elect to require that all or any portion of the net proceeds of the condemnation be applied on the Indebtedness. The "net proceeds" shall mean the total amount available after payment of all reasonable costs, expenses and attorneys' fees necessarily paid or incurred by Trustor and Beneficiary in connection with the taking by condemnation. Sale of all or any part of the Property to a purchaser with the power of eminent domain in the face of a threat or the probability of the exercise of the power shall be treated as a taking by condemnation to which this section shall apply.

6.2 Proceedings. If any proceedings in condemnation are filed, Trustor shall promptly take such steps as may be necessary to defend the action and obtain the award. Trustor shall be entitled, at its option, to commence, appear in and prosecute in its own name, any action or proceeding, or to make any compromise or settlement, in connection with such taking or damage, and to obtain all compensation, awards or other relief therefore to which Trustor may be entitled.

7. TRANSFER BY TRUSTOR.

7.1 Prohibition of Transfer Without Consent. Trustor shall not sell, agree to sell, assign, convey, subcontract or otherwise transfer any part or all of the Property or any interest in the Property without the prior written consent of Beneficiary, which consent may be withheld in Beneficiary's sole discretion. If Trustor or a prospective transferee applies to Beneficiary for consent to a transfer, Beneficiary may require such information as may be reasonably necessary for Beneficiary to assess the prospective transferee's prior business experience, reputation and financial ability to perform Trustor's obligation under this Deed of Trust. Without limiting the generality of the foregoing, the occurrence at any time of any of the following events, without Beneficiary's prior written consent, shall be deemed a transfer of title to the Property:

(a) Any sale, conveyance, lease with a term greater than 3 years (including renewal options), assignment or other transfer of all or any part of the legal or equitable title to the Property (including without limitation the grant of any trust deed or mortgage against the Property);

(b) Any conveyance, grant or other transfer of the legal or equitable title to the Property which occurs by operation of law, by trustees in bankruptcy, executors or estate administrators or executors, or by or through a bankruptcy court.

(c) If Trustor is a corporation, partnership or limited liability company, a sale, transfer or assignment of the corporate stock, partnership interests or membership interests, respectively, which results in more than twenty-five percent (25%) of the corporate stock, partnership interests or membership interests being held by persons or entities which are not, on the date hereof, shareholders, partners or members.

7.2 Condition to Consent. As a condition of its consent to any transfer, Beneficiary may in its discretion impose a service charge not exceeding 1 percent of the outstanding Indebtedness, and may increase the interest rate of the Indebtedness or otherwise require modification of the Note or this Deed of Trust. Beneficiary may increase the amount of each remaining installment so that the Indebtedness will

be fully paid by the original maturity date. In no event, however, shall the interest rate be increased beyond the maximum rate permitted under applicable law.

7.3 Effect of Consent. Consent by Beneficiary to one transfer shall not constitute a consent to other transfers or a waiver of this section. No transfer by Trustor shall relieve Trustor of liability for payment of the Indebtedness. Following a transfer, Beneficiary may agree to any extension of time for payment or modification of the terms of this Deed of Trust or the Note or waive any right or remedy under this Deed of Trust or the Note without relieving Trustor from liability. Trustor waives notice, presentment and protest with respect to the Indebtedness.

8. SECURITY AGREEMENT; SECURITY INTEREST.

8.1 Security Agreement. This instrument shall constitute a security agreement with respect to the Personal Property included in the description of the Property.

8.2 Security Interest. Trustor hereby authorizes Beneficiary to prepare and file all such UCC-1 financing statements and amendments thereto and continuations thereof, and take whatever other action as Beneficiary deems appropriate to perfect and continue Beneficiary's security interest in the Personal Property. Trustor hereby appoints Beneficiary as Trustor's attorney in fact for the purpose of executing any documents necessary to perfect or continue the security interest granted therein and authorizes Beneficiary to file such financing statements as Beneficiary deems appropriate to protect its security interest in the Personal Property. Beneficiary may file copies or reproductions of this Deed of Trust as a financing statement at any time and without further authorization from Trustor. Trustor will reimburse Beneficiary for all expenses incurred in perfecting or continuing this security interest. Upon default, Trustor shall assemble the Personal Property and make it available to Beneficiary within three days after receipt of written demand from Beneficiary.

8.3 Fixture Filing. This instrument constitutes a financing statement filed as a fixture filing in the Official Records of the County Recorder of the county in which the Property is located with respect to any and all fixtures included within the term Property as used herein and with respect to any goods or other personal property that may now be or hereafter become fixtures.

Name and address of Beneficiary (Secured Party) from whom information may be obtained:

Harvest Capital Company
PO Box 579
Canby, OR 97013

Address of Trustor (Debtor):

MDLN OF OREGON, LLC, an Oregon limited liability company
P.O. Box 417
Malin, Oregon 97632

8.4 Assignment of Leases.

8.4.1 As additional collateral and to further secure the Indebtedness and other obligations of Trustor, Trustor does hereby absolutely, presently and irrevocably assign, grant, transfer, and convey to Beneficiary, its successors and assigns, all of Trustor's right, title, and interest in, to, and under all leases, subleases, tenant contracts, rental agreements, franchise agreements, management contracts, construction contracts and other contracts, licenses and permits, map approvals and conditional

use permits, whether written or oral, now or hereafter affecting all or any part of the Property, and any agreement for the use or occupancy of all or any part of said Property which may have been made heretofore or which may be made hereafter, including any and all extensions, renewals, and modifications of the foregoing and all extensions, renewals, and modifications of the foregoing and guaranties of the performance or obligations of any tenants thereunder, and all other arrangements of any sort resulting in the payment of money to Trustor or in Trustor becoming entitled to the payment of money for the use of the Property or any part thereof whether such user or occupier is tenant, invitee, or licensee (all of the foregoing hereafter referred to collectively as the "Leases" and individually as a "Lease", and said tenants, invitees, and licensees are hereafter referred to collectively as "Tenants" and individually as "Tenant" as the context requires), which Leases cover all or portions of the Property; together with all of Trustor's right, title, and interest in and to all income, rents, issues, royalties, profits, rights and benefits and all Tenants' security and other similar deposits derived with respect to the Leases and with respect to the Property, including, without limitation, all base and minimum rents, percentage rents, additional rents, payments in lieu of rent, expense contributions, and other similar such payments and the right to collect the same as they become due, it being the intention of the parties hereto to establish an absolute transfer and assignment of all of the Leases and the Income to Beneficiary, and not just to create a security interest.

8.4.2 Trustor hereby represents, warrants, and agrees as follows:

- (a) Trustor is the sole holder of the landlord's interest under the Leases, is entitled to receive the Income under the Leases and from the Property, and has the full right to sell, assign, transfer, and set over the same and to grant to and confer upon Beneficiary the rights, interests, powers and authorities herein granted and conferred;
- (b) Trustor has made no pledge or assignment of the Leases or Income, other than to Beneficiary, and Trustor shall not, after the date hereof, make or permit any such pledge or assignment.

8.4.3 Trustor hereby covenants and agrees as follows:

Trustor shall authorize and direct, and does hereby authorize and direct, each and every present and future Tenant of the whole or any part of the Property to pay all rental to Beneficiary from and after the date of receipt of written demand from Beneficiary to do so.

8.4.4 Although this Deed of Trust constitutes as absolute, present and current assignment of all Income, as long as no event of default as described in Section 10 on the part of the Trustor shall have occurred, Beneficiary shall not demand that such Income be paid directly to Beneficiary, and Trustor shall have a license to collect, but not more than one (1) month prior to the due date thereof all such Income from the Property (including, without limitation, all rental payments under the Leases).

9. RECONVEYANCE ON FULL PERFORMANCE. If Trustor pays all of the Indebtedness when due and otherwise performs all the obligations imposed upon Trustor under this Deed of Trust, Beneficiary shall, if requested, execute and deliver to Trustor a suitable request for reconveyance of this Deed of Trust and suitable statements of termination of any financing statement on file.

10. DEFAULT. The following shall constitute events of default:

- (a) Failure of Trustor to pay any portion of the Indebtedness when it is due.
- (b) Failure of Trustor within the time required by this Deed of Trust to make any payment for taxes, insurance, or any other payment necessary to prevent filing or discharge of any lien (or within such time discharge or bond such lien in the manner permitted in Section 3.2 above).
- (c) Transfer or agreement to transfer any part or interest in the Property without the prior written consent of Beneficiary, as required under Section 7 above.
- (d) Dissolution, termination of existence, insolvency on a balance sheet basis or business failure of Trustor; the commencement by Trustor of a voluntary case under the federal bankruptcy laws or under any other federal or state law relating to insolvency or debtor's relief; the entry of a decree or order for relief against Trustor in an involuntary case under federal or state law relating to insolvency or debtor's relief; the appointment or the consent by Trustor to the appointment of a receiver, trustee or custodian of Trustor or of any of Trustor's property; an assignment for the benefit of creditors by Trustor; the making or suffering by Trustor of a fraudulent transfer under applicable federal or state law; concealment by Trustor of any of its property in fraud of creditors; the making or suffering by Trustor of a preference within the meaning of the federal bankruptcy law; the imposition of a lien through legal proceedings or distraint upon any of the property of Trustor which is not discharged or bonded in the manner permitted by Section 3.2 above; or Trustor's failure generally to pay its debts as such debts become due. The events of default in this paragraph shall apply and refer to Trustor and to each of the individuals or entities which are collectively referred to as "Trustor."
- (e) Any breach of any representation or warranty in the Environmental Agreement.
- (f) Failure of Trustor to perform any other obligation under this Deed of Trust or the Environmental Agreement within 15 days after receipt of written notice from Beneficiary specifying the nature of the default or, if the default cannot be cured within 15 days, failure within such time to initiate steps which Beneficiary deems in Beneficiary's sole discretion to be sufficient to cure the default and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practicable. No notice of default and no opportunity to cure shall be required if during the prior 12 months Beneficiary has already sent a notice to Trustor concerning default in performance of the same obligation.
- (g) Any use of Loan proceeds other than for agricultural business purposes.
- (h) Any default of MDLN Properties, LLC, an Oregon limited liability company and affiliate of Trustor ("**MDLN Properties**") under that certain Promissory Note dated of even date hereof in the original principal amount of \$5,025,000 made by MDLN Properties to the order of Beneficiary (the "**Other Note**") which is not cured within any applicable grace period provided therein, or any default of MDLN Properties under any Deed of Trust, Assignment of Rents and Security Agreement and Fixture Filing dated of even date hereof and recorded or to be recorded in Klamath County, Oregon, Modoc County, California and Siskiyou County, California, securing the Other Note (the "**Other Deed of Trust**") or any default of MDLN Properties under any other document executed in connection with the Other Note or the Other Deed of Trust which is not cured within any applicable grace period provided therein.

11. RIGHTS AND REMEDIES ON DEFAULT.

11.1 Remedies. Upon the occurrence of any event of default and at any time thereafter, Beneficiary may exercise any one or more of the following rights and remedies:

- (a) Beneficiary may declare the entire Indebtedness immediately due and payable.
- (b) The Trustee shall have the right to foreclose by notice and sale, and Beneficiary shall have the right to foreclose by judicial foreclosure in either case in accordance with applicable law.
- (c) If this Deed of Trust is foreclosed by judicial procedure, Beneficiary will be entitled to a judgment which will provide that if the foreclosure sale proceeds are insufficient to satisfy the judgment, execution may issue for any amount by which the unpaid balance of the obligations secured by this Deed of Trust exceeds the net sale proceeds payable to Beneficiary.
- (d) Beneficiary shall have the right, without notice to Trustor, to take possession of the Property and apply any proceeds of the Property, over and above Beneficiary's costs, against the Indebtedness. In furtherance of this right, Beneficiary may require any tenant or other user or occupant to make payments of rent or use fees directly to Beneficiary. If such proceeds are collected by Beneficiary, then Trustor irrevocably designates Beneficiary as Trustor's attorney-in-fact to endorse instruments received by payment thereof in the name of Trustor and to negotiate the same and collect the proceeds. Payments by tenants or other users to Beneficiary in response to Beneficiary's demand shall satisfy the obligation for which the payments are made, whether or not any proper grounds for the demand existed. Beneficiary may exercise its rights under this Section either in person, by agent or through receiver.
- (e) With respect to all or any part of the Property that constitutes personalty, may exercise the rights and remedies of a secured party under the Uniform Commercial Code. Beneficiary shall have the option of proceeding as to the Real Property and all or some of the Personal Property in accordance with the unified sale procedures set forth in the Uniform Commercial Code as adopted in Oregon.
- (f) Beneficiary shall have the right, without notice to Trustor to take possession of the Property, to collect the Income, including amounts past due and unpaid, and apply the net proceeds, over and above Beneficiary's costs, against the Indebtedness. In furtherance of this right, Beneficiary may require any tenant or other user to make payments of rent or use fees directly to Beneficiary. If the Income is collected by Beneficiary, then Trustor irrevocably designates Beneficiary as Trustor's attorney in fact to endorse instruments received in payment thereof in the name of Trustor and to negotiate the same and collect the proceeds. Payments by tenants or other users to Beneficiary in response to Beneficiary's demand shall satisfy the obligation for which the payments are made, whether or not any proper grounds for the demand existed. Beneficiary may exercise its rights under this paragraph either in person, by agent or through a receiver.
- (g) Beneficiary shall have the right to have a receiver appointed to take possession of any or all of the Property, with the power to protect and preserve the Property, to operate the Property preceding foreclosure or sale, to collect the Income from the Property and to apply the proceeds, over and above cost of the receivership, against the Indebtedness. The receiver may serve without bond if permitted by law. Beneficiary's right to the appointment of a receiver shall exist whether or not apparent value of the Property exceeds the Indebtedness by a substantial amount. Employment by Beneficiary shall not disqualify a person from serving as a receiver.

(h) In the event Trustor remains in possession of the Property after the Property is sold as provided above or Beneficiary otherwise becomes entitled to possession of the Property upon default of Trustor, Trustor shall become a tenant at will of Beneficiary or the purchaser of the Property and shall pay a reasonable rental for use of the Property while in Trustor's possession.

(i) Beneficiary shall have any other right or remedy provided in this Deed of Trust, the Note or any other instrument delivered by Trustor in connection therewith, or available at law, in equity or otherwise.

11.2 Rights of Receiver or Beneficiary-in-Possession. Upon taking possession of all or any part of the Property, the receiver or Beneficiary may:

(a) Use, operate, manage, control and conduct business on the Property and make expenditures for all maintenance and improvements as in its judgment are proper;

(b) Collect the Income from the Property and apply such sums to the expenses of use, operation and management;

(c) At Beneficiary's option, complete any construction in progress on the Property, and in that connection pay bills, borrow funds, employ contractors and make any changes in plans or specifications as Beneficiary deems appropriate.

If the revenues produced by the Property are insufficient to pay expenses, the receiver may borrow, from Beneficiary (if Beneficiary, in its sole discretion, agrees to lend) or otherwise, or Beneficiary may borrow or advance, such sums as the receiver or Beneficiary may deem necessary for the purposes stated in this paragraph. The amounts borrowed or advanced shall bear interest from the date of expenditure until repaid at the same interest rate as provided in Section 12.4 below. Such sums shall become a part of the Indebtedness secured by this Deed of Trust and shall be payable by Trustor on demand.

11.3 Sale of the Property. In exercising its rights and remedies, Beneficiary may cause all or any part of the Property to be sold as a whole or in parcels, and certain portions of the Property may be sold without selling other portions. Beneficiary may bid at any public sale on all or any portion of the Property.

11.4 Notice of Sale. Beneficiary shall give Trustor reasonable notice of the time and place of any public sale of any personal property or of the time after which any private sale or other disposition of the personal property is to be made. Reasonable notice shall mean notice given at least 10 days prior to the time of the sale or disposition.

11.5 Waiver; Election of Remedies. A waiver by either party of a breach 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. Election by Beneficiary to pursue any remedy shall not exclude pursuit of any other remedy, and all remedies of Beneficiary under this Deed of Trust are cumulative and not exclusive. An election to make expenditures or to take action to perform an obligation of Trustor shall not affect Beneficiary's right to declare a default and exercise its remedies under this Deed of Trust.

11.6 Attorneys' Fees; Expenses. In the event suit or action is instituted to enforce any of the terms of this Deed of Trust, the prevailing party shall be entitled to recover its reasonable attorneys' fees in exercising any of its remedies hereunder, including nonjudicial foreclosure or requested relief from the automatic stay in bankruptcy proceedings, otherwise at trial, on any appeal and on any petition for review,

in addition to all other sums provided by law. Whether or not any court action is involved, all reasonable expenses incurred by Beneficiary that are necessary at any time in Beneficiary's opinion for the protection of its interest or the enforcement of its rights shall become a part of the Indebtedness payable on demand and shall bear interest from the date of expenditure until repaid at the same interest rate as provided in Section 12.4 below. Expenses covered by this paragraph include (without limitation) the cost of searching records and obtaining title reports, surveyors' reports, attorneys' opinions and title insurance.

12. MISCELLANEOUS.

12.1 Time of Essence. Time is of the essence of this Deed of Trust.

12.2 Binding upon Successors and Assigns. Subject to the limitations stated in this Deed of Trust on transfer of Trustor's interest, this Deed of Trust shall be binding upon and inure to the benefit of the parties, their successors and assigns.

12.3 Security Agreement. In construing this Deed of Trust, the term "Deed of Trust" shall encompass the term "security agreement" when the instrument is being construed with respect to any personal property.

12.4 Expenditure by Beneficiary. If Trustor fails to comply with any provision of this Deed of Trust, Beneficiary may elect to take the required action on Trustor's behalf, and any amount that Beneficiary expends in so doing shall be added to the Indebtedness. Amounts so added shall be payable on demand with interest from the date of expenditure at the Default Rate (as specified in the Note). Such action by Beneficiary shall not constitute a cure or waiver of the default or any other right or remedy which Beneficiary may have on account of Trustor's default.

12.5 Notices. Any notice under this Deed of Trust shall be in writing and shall be effective when either delivered in person or, if mailed, shall be deemed effective when deposited as registered or certified mail, postage prepaid, addressed to the party at the address stated in this Deed of Trust. Any party may change its address for notices by written notice to the other.

12.6 Modification or Extension of Indebtedness; Release of Obligors. The taking by Trustor of any additional security, the release of any person now or hereafter liable for the repayment of the Indebtedness, or any extension of the time of payment of the Indebtedness or the renewal thereof, shall not diminish the effectiveness of this Deed of Trust or the lien of this Deed of Trust and shall not affect or impair the liability of any maker, surety or endorser for the payment of the Indebtedness.

12.7 Release of Security. Beneficiary shall have the right to release, with or without consideration or credit on the Indebtedness secured, any part of the Property. Without regard to the existence of any junior encumbrance and without the consent of such junior encumbrance, and such release shall have no further effect upon the rank, lien or estate conveyed of this Deed of Trust.

12.8 Waiver of Marshalling and Homestead Rights. Trustor expressly waives, to the full extent permitted by law, and relinquishes any right to claim a marshalling of assets in respect to the Property, or any part thereof, in the event of the foreclosure or other enforcement of this Deed of Trust. Trustor expressly waives any and all homestead and exception rights now or hereafter available under Oregon or federal law.

12.9 Invalid Provisions to Affect No Others. If any of the provisions contained in the Note or this Deed of Trust shall be invalid, illegal or unenforceable in any respect, the validity of the remaining provisions in this Deed of Trust and the Note shall not be affected thereby.

12.10 Changes in Writing. This Deed of Trust and any of its terms may only be changed, waived, discharged or terminated by an instrument in writing signed by the party against which enforcement of the change, waiver, discharge or termination is sought. Any agreement subsequently made by Trustor or Beneficiary relating to this Deed of Trust shall be superior to the rights of the holder of any intervening lien or encumbrance.

12.11 Exhibits. The following exhibits are attached to this Deed of Trust and incorporated herein by reference:

Exhibit A - Real Property
Exhibit B - Certain Equipment
Exhibit C - Water Rights

12.12 Applicable Law. The law of the State of Oregon, including applicable federal law, shall be applicable for the purpose of construing and determining the validity of this Deed of Trust and, to the fullest extent permitted by the law of any state in which any of the Property is located, determining the rights and remedies of Beneficiary on default.

12.13 Jurisdiction. In the event of a lawsuit relating to, or to enforce, this Deed of Trust, Trustor agrees upon Beneficiary's request to submit to the jurisdiction of the courts of Klamath County, State of Oregon.

12.14 Loan Purpose. The Trustor acknowledges that the proceeds of the Note are primarily for agricultural, commercial, investment or business purposes, and are not for a consumer transaction (which is defined as a transaction primarily for personal, family or household purposes).

12.15 Dissemination of Information. If the Beneficiary determines at any time to sell, transfer or assign the Note, this Deed of Trust and any other security instruments, and any or all servicing rights with respect thereto, or to grant participations therein or issue, in a public offering or private placement, mortgage pass-through certificates or other securities evidencing a beneficial interest in the loan, Beneficiary may forward to each purchaser, transferee, assignee, servicer, participant, investor, or their respective successors in such Participations and/or Securities, any rating agency rating such Securities and each prospective Investor, all documents and information which Beneficiary now has or may hereafter acquire relating to the Indebtedness and to the Trustor, any guarantor, any indemnitors and the Property, which shall have been furnished by Trustor, any guarantor or any indemnitors, as Beneficiary determines necessary or desirable.

12.16 Covenants Run with the Land. All of the grants, covenants, terms, provisions and conditions herein contained shall run with the Real Property and shall apply to, bind and inure to the benefit of, the successors and assigns of Trustor and Beneficiary.

12.17 Powers and Obligations of Trustee.

(a) Powers of Trustee. In addition to all powers of Trustee arising as a matter of law, Trustee shall have the power to take the following actions with respect to the Real Property upon the request of Beneficiary and Trustor:

(i) Join in preparing and filing a map or plat of the Real Property, including the dedication of streets or other rights in the public.

(ii) Join in granting any easement or creating any restriction on the Real Property.

(iii) Join in any subordination or other agreement affecting this Deed of Trust or the interest of Beneficiary under this Deed of Trust.

(iv) Reconvey, without warranty, all or any part of the Real Property.

(b) Obligations to Notify. Trustee shall not be obligated to notify any other party of a pending sale under any other trust deed or lien, or of any action or proceeding in which Trustor, Beneficiary or Trustee shall be a party, unless the action or proceeding is brought by Trustee.

(c) Reliance. Trustee, upon presentation to it of an affidavit signed by Beneficiary setting forth facts showing a default by Trustor under this Deed of Trust, is authorized to accept as true and conclusive all facts and statements therein, and to act thereon hereunder.

12.18 Substitution of Trustee. Beneficiary may from time to time, without notice to Trustor or Trustee and with or without cause and with or without the resignation of the Trustee, substitute a successor or successors to the Trustee named herein or acting hereunder to execute this Deed of Trust. Upon such appointment and without conveyance to the successor Trustee, the latter shall be vested with all title, powers and duties conferred upon the Trustee herein named or acting hereunder. Each such appointment and substitution shall be made by written document executed by Beneficiary, containing reference to this Deed of Trust and its place of record, which when duly filed for record in the proper office, shall be conclusive proof of proper appointment of the successor Trustee. The procedure herein provided for substitution of the Trustee shall be conclusive of all other provisions for substitution, statutory or otherwise.

WARNING: UNLESS YOU (TRUSTOR) PROVIDE US (BENEFICIARY) WITH EVIDENCE OF THE INSURANCE COVERAGE AS REQUIRED BY OUR CONTRACT OR LOAN AGREEMENT, WE MAY PURCHASE INSURANCE AT YOUR EXPENSE TO PROTECT OUR INTEREST. THIS INSURANCE MAY, BUT NEED NOT, ALSO PROTECT YOUR INTEREST. IF THE COLLATERAL BECOMES DAMAGED, THE COVERAGE WE PURCHASE MAY NOT PAY ANY CLAIM YOU MAKE OR ANY CLAIM MADE AGAINST YOU. YOU MAY LATER CANCEL THIS COVERAGE BY PROVIDING EVIDENCE THAT YOU HAVE OBTAINED PROPERTY COVERAGE ELSEWHERE. YOU ARE RESPONSIBLE FOR THE COST OF ANY INSURANCE PURCHASED BY US. THE COST OF THIS INSURANCE MAY BE ADDED TO YOUR CONTRACT OR LOAN BALANCE. IF THE COST IS ADDED TO YOUR CONTRACT OR LOAN BALANCE, THE INTEREST RATE ON THE UNDERLYING CONTRACT OR LOAN WILL APPLY TO THIS ADDED AMOUNT. THE EFFECTIVE DATE OF COVERAGE MAY BE THE DATE YOUR PRIOR COVERAGE LAPSED OR THE DATE YOU FAILED TO PROVIDE PROOF OF COVERAGE.

[signatures and acknowledgments follow]

TRUSTOR:

MDLN OF OREGON, LLC, an Oregon limited liability company

By: Mark R. Trotman

Mark R. Trotman, Member

By: Dawn M. Trotman

Dawn M. Trotman, Member

By: Lohny E. Baley

Lohny E. Baley, Member

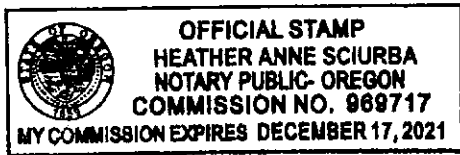
By: Nancy L. Baley

Nancy L. Baley, Member

ACKNOWLEDGMENTS

STATE OF OREGON)
COUNTY OF Klamath) ss.

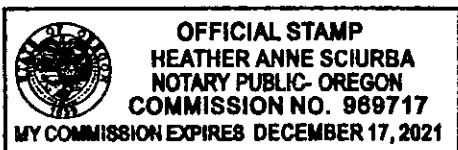
This instrument was acknowledged before me April 19, 2019, by Mark R. Trotman, as Member of MDLN OF OREGON, LLC, an Oregon limited liability company.



Heather Anne Scurba
Notary Public
My commission expires: Dec. 17, 2021
Commission No.: 969717

STATE OF OREGON)
COUNTY OF Klamath) ss.

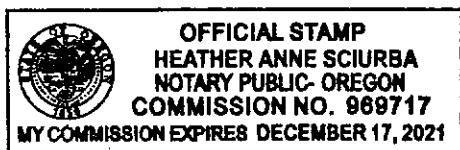
This instrument was acknowledged before me April 19, 2019, by Dawn M. Trotman, as Member of MDLN OF OREGON, LLC, an Oregon limited liability company.



Heather Anne Scurba
Notary Public
My commission expires: Dec. 17, 2021
Commission No.: 969717

STATE OF OREGON)
COUNTY OF Klamath) ss.

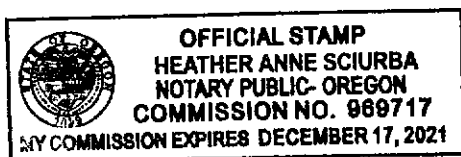
This instrument was acknowledged before me April 19, 2019, by Lonny E. Baley, as Member of MDLN OF OREGON, LLC, an Oregon limited liability company.



Heather Anne Scurba
Notary Public
My commission expires: Dec. 17, 2021
Commission No.: 969717

STATE OF OREGON)
COUNTY OF Klamath) ss.

This instrument was acknowledged before me April 19, 2019, by Nancy L. Baley, as Member of MDLN OF OREGON, LLC, an Oregon limited liability company.



Heather Anne Scurba
Notary Public
My commission expires: Dec. 17, 2021
Commission No.: 969717

**EXHIBIT A
TO DEED OF TRUST**

Legal Description

PARCEL 1:

The S1/2 of the NW1/4 of Section 12, Township 41 South, Range 12 East of the Willamette Meridian, Klamath County, Oregon, EXCEPTING THEREFROM that portion set forth in Deed Volume 114, page 31, and that portion lying Northeasterly of the county road.

PARCEL 2:

The N1/2 of the SW1/4 of Section 12, Township 41 South, Range 12 East of the Willamette Meridian, Klamath County, Oregon.

PARCEL 3:

The S1/2 of the SW1/4 of Section 12, Township 41 South, Range 12 East of the Willamette Meridian, Klamath County, Oregon.

PARCEL 4:

The N1/2 of the NW1/4 of Section 13, Township 41 South, Range 12 East of the Willamette Meridian, Klamath County, Oregon.

PARCEL 5:

The following described real property situate in Klamath County, Oregon, to wit:

Township 38 South, Range 11 East of the Willamette Meridian, Klamath County, Oregon.

Section 21: E1/2 E1/2

Section 22: NW1/4 NW1/4, S1/2 NW1/4, SW1/4, SW1/4 SE1/4

Section 27: E1/2, N1/2 NW1/4, SE1/4NW1/4

Section 28: NE1/4 NE1/4

Section 34: N1/2 NE1/4

EXCEPTING THEREFROM all of the following parcel lying East of the Bly/Bonanza Cut Off Road:

Township 38 South, Range 11 East of the Willamette Meridian, Klamath County, Oregon.

Section 22: SW1/4 SE1/4

Section 27: E1/2

Section 34: N1/2 NE1/4

PARCEL 6:

All of the following parcel lying East of the Bly/Bonanza Cut Off Road:

Township 38 South, Range 11 East of the Willamette Meridian, Klamath County, Oregon.

Section 22: SW1/4 SE1/4

Section 27: E1/2

Section 34: N1/2 NE1/4

EXHIBIT B TO DEED OF TRUST

Certain Equipment

POWER UNIT				PUMP UNIT				
PUMP SITE	MANUFACTURER	HORSEPOWER	FRAME/MODEL NUMBER	SERIAL NUMBER	MANUFACTURER	TYPE	MODEL #	SERIAL #
Tract I. - Bly Mtn Ranch								
Well #1	US Motors	200	445TP	ID# 6349-802A325R073M	Johnson	Centrifugal	JP38605	unavailable
	Baldor	40	Cat# A-1504DB-DD		Cornell	Centrifugal	4WB-40-2	80919
					Berkeley	Centrifugal	B6JPBM	8262704
Well #2	US Motors	200	587P	1215705	Johnson	Centrifugal	10CS	H11C
	Marathon Electric	50	CL324TTDR7023AAAW	505069	Berkeley	Centrifugal	4EPBL	7731950
	Century	50	324TCZ	0606				
Booster Well	Century	75	M #SC-405UY-FCA	4-F16371	Berkeley	Centrifugal	6NPBM-75	00421-W
Pond Pump		125	405TP	062600	Pearless			324117
				ID# Y11Y270R088R-9				
Tract II. - Schmidli								
South Site	General Electric	60	M# 5K326JN1390A		Cornell	Centrifugal	5WB50-2	2012
	General Electric	60	no tag		Cornell	Centrifugal	5WB50-2	21938
North Site	General Electric	50	M# 5K324JL146A		Cornell	Centrifugal	5WB60	33873
	General Electric	50	M# 5K324JL1463		Cornell	Centrifugal	5WB50	34322

PIVOTS

<u>PUMP SITE</u>	<u>MANUFACTURER</u>	<u>SIZE (# OF TOWERS)</u>	<u>SERIAL NUMBER</u>	<u>MODEL NUMBER</u>
<u>Tract I. - Bly Mtn Ranch</u>				
<u>Pivot #1</u>	Valley (1/2)	10 Towers with end gun	70199	6000
<u>Pivot #2</u>	Valley (full)	7 towers with corner unit	24983	5171

MANUFACTURED HOMES

<u>MANUFACTURER</u>	<u>YEAR BUILT</u>	<u>HOME ID #</u>	<u>XPLATE NUMBER</u>	<u>SERIAL NUMBER</u>	<u>COUNTY XREF</u>
Cascade	1984	244503	X185353	7999	873363

OTHER EQUIPMENT

<u>Tract I. - Bly Mtn Ranch</u>	
12 Wheel lines and various hand lines	
<u>Tract II. - Schmidli</u>	
11 Wheel lines and various hand lines	

**EXHIBIT C
TO DEED OF TRUST**

Water Rights

		Amount	Primary Water Right	Priority	Application	Permit	Certificate	Permittee
Section	Source	(CFS)	Acres	Date	Number	Number	Number	Name
Tract I. - Bly Mtn Ranch								
21	Two Wells	0.80	19.40	04/25/1977	G-8062	G-7465	65155	Robert & Helen Cheyne
22	Two Wells	0.80	89.00	04/25/1977	G-8062	G-7465	65155	Robert & Helen Cheyne
27	Two Wells	0.80	294.90	04/25/1977	G-8062	G-7465	65155	Robert & Helen Cheyne
28	Two Wells	0.80	10.00	04/25/1977	G-8062	G-7465	65155	Robert & Helen Cheyne
34	Two Wells	0.80	30.70	04/25/1977	G-8062	G-7465	65155	Robert & Helen Cheyne
21	Well 2	0.80	78.30	11/05/1990	G-12284	G-11425		Robert & Helen Cheyne
22	Well 2	0.80	46.90	11/05/1990	G-12284	G-11425		Robert & Helen Cheyne
27	Well 2	0.80	25.30	11/05/1990	G-12284	G-11425		Robert & Helen Cheyne
34	Well 2	0.80	8.60	11/05/1990	G-12284	G-11425		Robert & Helen Cheyne
Total Acres - Tract I			603.10					
Tract II. - Schmidli								
12			218.50	05/19/1905		C L A I M		Malin Irrigation District
13			75.10	05/19/1905		C L A I M		Malin Irrigation District
Total Acres - Tract II			293.60					
Total Acres - Both Tracts			896.70					