

2019-013244

Klamath County, Oregon

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Fee: \$202.00

AFTER RECORDING, RETURN TO:

Resources Law Group, LLP
555 Capitol Mall, Suite 1090
Sacramento, CA 95814
Attn: Julie Turrini

[Space above this line for Recorder's use]

TRUST DEED
(Timmerman Ranch Property - Klamath County)

THIS TRUST DEED ("**Trust Deed**") is made and is effective as of this October 18, 2019,

by: WESTERN RIVERS CONSERVANCY, an Oregon nonprofit public benefit corporation, having its chief executive offices at 71 SW Oak Street, Suite 100, Portland, Oregon, 97204 ("**Grantor**" or "**Borrower**"),

to: AmeriTitle, with offices at 300 Klamath Avenue, Klamath Falls, Oregon 97601 ("**Trustee**"),

for the benefit of:

THE DAVID AND LUCILE PACKARD FOUNDATION, a California nonprofit public benefit corporation, having its offices at 343 Second Street, Los Altos, California, 94022 ("**Beneficiary**" or "**Lender**").

A. WHEREAS, Beneficiary has offered to make a loan to Grantor according to the terms of a *Credit Agreement* (the "**Agreement**") providing for a loan in the principal sum of THREE MILLION NINE HUNDRED FIFTY THOUSAND DOLLARS (\$3,950,000). The loan, if not sooner paid, is due and payable in full on or before three (3) years from the date Beneficiary advances the loan funds to Grantor in accordance with the Agreement, unless extended according to the terms of the Agreement. (The term "**Agreement**" as used herein refers to the original *Credit Agreement*, dated October 18, 2019 for reference purposes only, as may be

modified, supplemented, extended, renewed, or replaced from time to time); and

B. WHEREAS, as a condition of the making of the loan to Grantor, Beneficiary has required, and Grantor has agreed, to execute and deliver, this Trust Deed.

C. NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, and for the purpose of securing the Obligations described in Section 1.01 below, Grantor irrevocably grants, bargains, sells, conveys, assigns, and transfers to Trustee in trust for the benefit and security of the Beneficiary, with power of sale and right of entry and possession, all of Grantor's right, title, and interest in and to the real property located in Klamath County, State of Oregon, and more particularly described in **Exhibit A** attached hereto and incorporated herein (the "**Property**");

D. TOGETHER WITH all interests, estates, and rights that Grantor now has or may hereafter acquire in (1) the Property; (2) any and all options, agreements, and contracts for the purchase or sale of all or any part or parts of the Property or interests in the Property; (3) all easements, rights-of-way, and rights used in connection with the Property or as a means of access to the Property; and (4) all tenements, hereditaments, and appurtenances in any manner belonging, relating, or appertaining to the Property; and

E. TOGETHER WITH all interests, estates, and rights of Grantor, now owned or hereafter acquired, in and to any land lying within any streets, sidewalks, alleys, strips, and gores adjacent to or used in connection therewith; and

F. TOGETHER WITH all rights, titles, and interests of Grantor, now owned or hereafter acquired, in and to any and all buildings and other improvements of every nature now or hereafter located on the Property and all fixtures, machinery, equipment, and other personal property located on the Property or attached to, contained in, or used in any such buildings and other improvements, and all appurtenances and additions to and substitutions and replacements of the Property (all of the foregoing being collectively referred to below as the "**Improvements**"); and

G. TOGETHER WITH any and all timber, mineral, oil and gas rights, air rights, development rights, water rights, water

stock, water service contracts, drainage rights, zoning rights, and other similar rights or interests of Grantor that benefit or are appurtenant to the Property or the Improvements or both, now owned by Grantor or hereafter acquired by Grantor, and any of their proceeds; and

H. TOGETHER WITH all present and future rights of Grantor, if any, in and to the trade name by which all or any portion of the Property and the Improvements are known; all records of Grantor relating to the use and operation of all or any portion of the Property and Improvements; all right, title, and interest of Grantor in, to, and under all present and future plans, specifications, and contracts relating to the design, construction, management, or inspection of any Improvements; all rights, titles, and interests of Grantor in and to all present and future licenses, permits, approvals, and agreements with or from any municipal corporation, county, state, or other governmental or quasi-governmental entity or agency relating to the development, improvement, division, or use of all or any portion of the Property to the extent such trade names, licenses, permits, approvals, and agreements are assignable by law; and all other general intangibles owned by Grantor relating to the Property, the Improvements, or their use and operation; and

I. TOGETHER WITH all rights of Grantor in and to any escrow or withhold agreements, title insurance, surety bonds, warranties, management contracts, leasing and sales agreements, and service contracts that are in any way relevant to the ownership, development, improvement, management, sale, or use of all or any portion of the Property or any of the Improvements; and

J. TOGETHER WITH Grantor's rights under any payment, performance, or other bond in connection with construction of any Improvements, and all construction materials, supplies, and equipment delivered to the Property or intended to be used in connection with the construction of any Improvements; and

K. TOGETHER WITH all rights, interests, and claims that Grantor now has or may acquire with respect to any damage to or taking of all or any part of the Property or the Improvements, including without limitation any and all proceeds of insurance in effect with respect to the Improvements, any and all awards made for taking by eminent domain or by any proceeding or purchase in lieu thereof, of the whole or any part of the Property or the Improvements, and any and all awards resulting

from any other damage to the Property or the Improvements, all of which are assigned to Beneficiary, and, subject to the terms of this Trust Deed, Beneficiary is authorized to collect and receive such proceeds, to give proper receipts and acknowledgements for the proceeds, and to apply them to the Obligations secured by this Trust Deed.

[All of the above listed in paragraphs C through K inclusive is sometimes referred to below as the "Trust Property."]

L. TO HAVE AND TO HOLD the Trust Property to Trustee and its successors and assigns for the benefit of Beneficiary and its successors and assigns, forever, PROVIDED ALWAYS, that if all the Obligations (as defined in Section 1.01 below) shall be paid, performed, and satisfied in full, then the lien and estate granted by this Trust Deed shall be reconveyed.

M. This Trust Deed, the Agreement, and all other agreements or instruments executed at any time in connection therewith, as they may be amended or supplemented from time to time, are sometimes collectively referred to below as the "Loan Documents".

N. The terms and conditions of the other Loan Documents are incorporated herein by this reference. To the extent there are any conflicts between the terms and conditions of this Trust Deed and any of the other Loan Documents, the terms and conditions most favorable to the Beneficiary, as determined by the Beneficiary in the Beneficiary's sole subjective judgment, shall control.

TO PROTECT THE SECURITY OF THIS TRUST DEED, GRANTOR HEREBY COVENANTS AND AGREES AS FOLLOWS:

ARTICLE I

Particular Covenants and Warranties of Grantor

1.01 Obligations Secured. This Trust Deed 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 Agreement, whether such payment and performance is now due or becomes due in the future; and

(2) The payment and performance of all covenants and obligations in this Trust Deed and in any other Loan Documents.

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 Property and the Improvements, free and clear of all liens, encumbrances, reservations, restrictions, easements, and adverse claims except those specifically listed in **Exhibit B** attached hereto, if any. Grantor covenants that it shall forever defend Beneficiary's and Trustee's rights under this Trust Deed against the adverse claims and demands of all persons.

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 Trust Deed.

(2) Grantor, immediately upon the execution and delivery of this Trust Deed, and thereafter from time to time, shall cause this Trust Deed, any supplemental security agreement, mortgage, or deed of trust and each instrument of further assurance, to be recorded and re-recorded 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 Trust Deed.

(3) Grantor shall pay all filing and recording fees, and all expenses incident to the execution, filing, recording, and acknowledgment of this Trust Deed; 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 Trust Deed, 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 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 Property (collectively "**Covenants**"); and

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

1.06 Definitions; Environmental Covenants; Warranties and Compliance.

(1) For purposes of this section, "**Environmental Law**" means any federal, state, or local law, statute, ordinance, or regulation pertaining to Hazardous Substances, health, industrial hygiene, or environmental conditions, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("**CERCLA**"), as amended, 42 USC §§9601-9675, and the Resource Conservation and Recovery Act of 1976 ("**RCRA**"), as amended, 42 USC §§6901-6992, and any similar subsequent or replacement law, statute, ordinance, or regulation.

(2) For the purposes of this section, "**Hazardous Substance**" includes, without limitation, any material, substance, or waste that is or becomes regulated or that is or becomes classified as hazardous, dangerous, or toxic under any federal, state, or local statute, ordinance, rule, regulation, or law.

(3) Grantor will not use, generate, manufacture, produce, store, release, discharge, or dispose of on, under or about the Property or the Property's groundwater, or transport to or from the Property, any Hazardous Substance and will not permit any other person to do so, except for such Hazardous Substances that may be used in the ordinary course of Grantor's business, if any, and in compliance with all Environmental Laws, including but not limited to those relating to licensing, notice, and record keeping.

(4) Grantor will keep and maintain the Property in compliance with, and shall not cause or permit all or any

portion of the Property, including groundwater, to be in violation of any Environmental Law.

(5) Grantor shall give prompt written notice to Beneficiary of:

(a) Any proceeding, inquiry, or notice by or from any governmental authority with respect to any alleged violation of any Environmental Law or the presence of any Hazardous Substance on the Property or the migration of any Hazardous Substance from or to other premises;

(b) All known claims made or threatened by any person against Grantor or with respect to the Property or Improvements relating to any loss or injury resulting from any Hazardous Substance or the violation of any Environmental Law;

(c) The existence of any Hazardous Substance on or about all or any portion of the Property; or

(d) Grantor's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Property that could in Grantor's judgment cause any restrictions on the ownership, occupancy, transferability, or use of the Property under any Environmental Law.

(6) Grantor shall promptly provide to Beneficiary copies of all reports, documents, and notices provided by Grantor to or received by Grantor from any agency administering any Environmental Laws. Beneficiary shall have the right to join and participate, in its own name if it so elects, in any legal proceeding or action initiated with respect to the Property or Improvements in connection with any Environmental Law and have its reasonable attorney fees in connection with such an action paid by Grantor, if Beneficiary determines that such participation is reasonably necessary to protect its interest in the Trust Property.

(7) If, at any time, Beneficiary has reason to believe that any release, discharge, or disposal of any Hazardous Substance affecting the Property or Improvements has occurred or is threatened, or if Beneficiary has reason to believe that a violation of an Environmental Law has occurred or is likely to occur with respect to the Property or Improvements, Beneficiary may require Grantor to obtain or may itself obtain, at Grantor's expense, an environmental assessment of such condition or

threatened condition by a qualified environmental consultant. Grantor shall promptly provide to Beneficiary a complete copy of any environmental assessment obtained by Grantor.

(8) In the event that any investigation, site monitoring, containment, cleanup, removal, restoration, or other remedial work of any kind or nature (the "**Remedial Work**") is required under any applicable Environmental Law, any judicial order, or by any governmental agency because of, or in connection with, the current or future presence, suspected presence, release or suspected release of a Hazardous Substance on, under, or about all or any portion of the Property, or the contamination (whether presently existing or occurring after the date of this Trust Deed) of the buildings, facilities, soil, groundwater, surface water, air, or other elements on or under any other property as a result of Hazardous Substances emanating from the Property, Grantor shall, within 60 days after written demand by Beneficiary for Grantor's performance under this provision (or such shorter period of time as may be required under any applicable law, regulation, order, or agreement), commence and thereafter diligently prosecute to completion, all such Remedial Work. All reasonable costs and expenses of such Remedial Work shall be paid by Grantor including, without limitation, Beneficiary's reasonable attorneys' fees and costs incurred in connection with monitoring or review of the legal aspects of such Remedial Work. In the event Grantor shall fail to timely commence, or cause to be commenced, such Remedial Work, Beneficiary may, but shall not be required to, cause such Remedial Work to be performed. In that event, all reasonable costs and expenses incurred in connection with the Remedial Work shall become part of the Obligations secured by this Trust Deed and shall bear interest until paid at the rate provided in the Agreement.

(9) Grantor shall hold Beneficiary, its directors, officers, employees, agents, successors, and assigns, harmless from, indemnify them for, and defend them against any and all losses, damages, liens, costs, expenses, and liabilities directly or indirectly arising out of or attributable to any violation of any Environmental Law, any breach of Grantor's warranties in this Section 1.06, or the use, generation, manufacture, production, storage, release, threatened release, discharge, disposal, or presence of a Hazardous Substance on, under, or about the Property, including without limitation the costs of any required repair, cleanup, containment, or detoxification of the Property, the preparation and

implementation of any closure, remedial or other required plans, attorneys' fees and costs (including but not limited to those incurred in any proceeding and in any review or appeal), fees, penalties, and fines.

(10) Grantor represents and warrants to Beneficiary that, except as disclosed in writing to Beneficiary on or before the date of this Trust Deed:

(a) To Grantor's knowledge, neither the Property nor Grantor is in violation of or subject to any existing, pending, or threatened investigation by any governmental authority under any Environmental Law.

(b) Grantor has not and is not required by any Environmental Law to obtain any permit or license other than those it has obtained to construct or use the Improvements.

(c) To Grantor's knowledge, no Hazardous Substance has ever been used, generated, manufactured, produced, stored, released, discharged, or disposed of on, under or immediately adjacent to the Property in violation of any Environmental Law.

(11) All representations, warranties, and covenants in this Section 1.06 shall survive the satisfaction of the Obligations, the reconveyance of the Trust Property, or the foreclosure of this Trust Deed by any means.

1.07 Waste. Grantor shall not commit, permit, or suffer any waste, strip, or deterioration of the Trust Property or any aspect thereof. For purposes of this Section 1.07, construction of new improvements (as opposed to maintenance of existing improvements) without the prior written consent of the Beneficiary shall be deemed to be "waste".

1.08 Liens. Subject to Section 1.09 below, 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 upon the Trust Property prior to, on a parity with, or subordinate to the lien of this Trust Deed, 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 non-governmental 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); 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, attorneys' fees, and other charges that may accrue in connection with the Imposition; provided, however, that Grantor shall not be required to furnish such security to Beneficiary to the extent that Grantor has otherwise provided security as required by applicable law. Grantor shall promptly satisfy any final judgment.

(3) Grantor shall furnish to Beneficiary, promptly upon written request, satisfactory evidence of the payment of all

Impositions. Beneficiary is hereby authorized to request and receive from the responsible governmental and non-governmental personnel written statements with respect to the accrual and payment of all Impositions.

1.10 Books and Records; Inspection of the Property. Grantor shall keep complete and accurate records and books of account with respect to the Trust Property and its operation in accordance with generally accepted accounting principles consistently applied. Grantor shall permit Trustee, Beneficiary, and their authorized representatives to enter and inspect the Property and the Improvements, and to examine and make copies or extracts of the records and books of account of the Grantor with respect to the Property and the Improvements, all at such reasonable times as Beneficiary or Trustee may choose.

1.11 Limitations of Use. Except as set forth in the Agreement, Grantor shall not initiate, join in, or consent to any re-zoning of the Property or any change in any Covenant or other public or private restrictions limiting or defining the uses that may be made of all or any part of the Property and the Improvements without the prior written consent of Beneficiary. NOTICE: IN ADDITION TO THE LIMITATIONS OF USE SET OUT IN THIS TRUST DEED, AND WITHOUT LIMITING THE GENERAL INCORPORATION INTO THIS TRUST DEED OF ALL OF THE TERMS AND CONDITIONS OF THE AGREEMENT, GRANTOR SPECIFICALLY ACKNOWLEDGES THAT THE AGREEMENT CONTAINS SIGNIFICANT LIMITATIONS ON GRANTOR'S RIGHTS WITH RESPECT TO THE PROPERTY, THE USE OF THE PROPERTY, AND THE DISPOSITION OF THE PROPERTY, INCLUDING BUT NOT LIMITED TO THOSE LIMITATIONS FOUND IN "ARTICLE 5 - COVENANTS OF BORROWER" OF THE AGREEMENT.

1.12 Insurance

(1) Property and Other Insurance. Grantor shall obtain and maintain in full force and effect during the term of this Trust Deed 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 and \$2,000,000 aggregate 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 reasonably require.

(2) **Insurance Companies and Policies.** Grantor has provided Beneficiary with a schedule detailing all of the insurance coverage currently maintained by Grantor. Grantor shall maintain in full force and effect all such insurance coverage at all times during the period the Obligations remain outstanding, at coverage levels currently held, and Grantor shall name Beneficiary as an additional insured on all such liability policies. Grantor shall forward to Beneficiary, upon Beneficiary's request, certificates evidencing the coverages required under this Trust Deed.

(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 1.14.

1.13 Assignments of Policies upon Foreclosure. In the event of foreclosure of the lien of this Trust Deed 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 1.12 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.

1.14 Casualty/Loss Restoration

(1) After the occurrence of any casualty to the Property, whether or not required to be insured against as provided in this Trust Deed, 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) Grantor assigns to Beneficiary all insurance proceeds that Grantor may be entitled to receive with respect to any casualty. Beneficiary may, at its sole option, apply the insurance proceeds to the reduction of the Obligations in such order as Beneficiary may determine, whether or not such

obligations are then due, or apply all or any portion of the insurance proceeds to the cost of restoring and rebuilding the portion of the Trust Property that was damaged or destroyed. In the event that Beneficiary elects to apply the insurance proceeds to rebuilding and restoration, Beneficiary shall be entitled to hold the proceeds, and the proceeds shall be released only on such terms and conditions as Beneficiary shall require in its sole discretion, including but not limited to prior approval of plans and release of liens. No proceeds shall be released if Grantor is in default under this Trust Deed.

1.15 Actions to Protect Trust Property; Reserves

(1) If Grantor shall fail to obtain the insurance required by Section 1.12, 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 Trust Deed, Beneficiary may, upon three business days advance notice to Grantor, 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 attorneys' fees, so expended or expended to maintain the lien or estate of this Trust Deed or its priority, or to protect or enforce any of Beneficiary's rights, or to recover any indebtedness secured by this Trust Deed, shall be a lien on the Trust Property, shall be secured by this Trust Deed, and shall be paid by Grantor upon demand, together with interest at the rate provided in the Agreement. 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.

(2) If Grantor fails to promptly perform any of its obligations under Section 1.09 or 1.12 of this Trust Deed, Beneficiary may require Grantor thereafter to pay and maintain with Beneficiary reserves for payment of such obligations. In that event, Grantor shall pay to Beneficiary each month a sum estimated by Beneficiary to be sufficient to produce, at least 20 days before due, an amount equal to the Impositions and/or insurance premiums. If the sums so paid are insufficient to satisfy any Imposition or insurance premium when due, Grantor shall pay any deficiency to Beneficiary upon demand. The reserves may be commingled with Beneficiary's other funds, and Beneficiary shall not be required to pay interest to Grantor on such reserves. Beneficiary shall not hold the reserve in trust for Grantor, and Beneficiary shall not be the agent of Grantor

for payment of the taxes and assessments required to be paid by Grantor.

1.15A Insurance Warning. Unless Grantor provides Beneficiary with evidence of the insurance coverage required herein, Beneficiary may purchase insurance at Grantor's expense to protect Beneficiary's interest. This insurance may, but need not, also protect Grantor's interest. If the Trust Property becomes damaged, the coverage Beneficiary purchases may not pay any claim Grantor makes or any claim made against Grantor. Grantor may later cancel this coverage by providing evidence that Grantor has obtained property coverage elsewhere.

Grantor is responsible for the cost of any insurance purchased by Beneficiary. The cost of this insurance may be added to Grantor's loan balance. If the cost is added to Grantor's loan balance, the interest rate on the underlying loan will apply to this added amount. The effective date of coverage may be the date Grantor's prior coverage lapsed or the date Grantor failed to provide proof of coverage.

The coverage Beneficiary purchases may be considerably more expensive than insurance Grantor can obtain on its own and may not satisfy any need for property damage coverage or any mandatory liability insurance requirements imposed by applicable law.

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

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) 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 its option, to commence, appear in, and prosecute any Condemnation proceeding in its own or Grantor's name and make any compromise or settlement in connection with such Condemnation. In the event the Trust Property is taken in its entirety by condemnation, all Obligations secured by this Trust Deed, at Beneficiary's election, shall become immediately due and collectible.

ARTICLE III (Intentionally Omitted)

ARTICLE IV (Intentionally Omitted)

ARTICLE V

Events of Default; Remedies

5.01 Events of Default. Subject to applicable notice and cure provisions set forth in any Loan Document, each of the following shall constitute an event of default under this Trust Deed and under each of the other Loan Documents:

(1) **"Events of Default" in the Agreement.** Any and all of the Events of Default as listed in Section 6.1 of the Agreement are incorporated herein as events of default under this Trust Deed.

(2) **Breach of Other Terms or Covenants.** Failure of Grantor to perform or abide by any other term or covenant included in the Obligations, including without limitation those covenants in the Agreement, in this Trust Deed, or in any other Loan Document.

(3) **Certain Taxes.** For purposes of this subsection (3), State Tax shall mean:

(a) A specific tax on mortgages, trust deeds, secured indebtedness, or any part of the Obligations secured by this Trust Deed.

(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 obligations 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 Trust Deed applicable to this Trust Deed, enactment of the State Tax shall constitute an event of default, unless within 30 days after notice from Beneficiary or Trustee that the State Tax has been enacted, Grantor either (a) pays the State Tax, or (b) agrees in writing to pay the tax or charge.

5.02 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) **"Lender's Options upon Borrower's Default" in the Agreement.** Any and all of the Lender's Options upon Borrower's Default as listed in Section 6.2 of the Agreement are incorporated herein as remedies available to Beneficiary under this Trust Deed.

(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 Trust Deed. 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 its sole discretion. Upon 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 Trust Deed.

(4) **Power of Sale.** Beneficiary may direct Trustee, and Trustee shall be empowered, to foreclose the Property by advertisement and sale under applicable Oregon law (a non-judicial foreclosure).

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

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

5.03 Due on Sale. Grantor understands that Beneficiary, in making the loan evidenced by the Agreement, is relying to a material extent upon the continuing interest and continuing equity which Grantor has in the Trust Property. Accordingly, in the event that Grantor shall, without the prior written consent of Beneficiary, directly or indirectly, voluntarily or involuntarily, sell, assign, transfer, dispose of or further encumber or agree to sell, assign, transfer, dispose of or further encumber or suffer to exist any other lien against all or any portion of or any interest in the Trust Property, then the same shall be deemed to increase the risk to Beneficiary and Beneficiary may, at Beneficiary's option, then, or at any time thereafter, declare the entire indebtedness secured by the Trust Deed immediately due and payable.

For the purpose of this Section 5.03: (a) the terms "sell" and "transfer" shall include, in addition to the common and ordinary meaning of those terms and without limiting their generality, any "change in ownership" as that term is used from time to time in Oregon law; and (b) the term "transferee" shall mean purchaser, assignee, grantee or subsequent owner of all or any portion of the Trust Property or of any interest in Grantor.

The foregoing options may be exercised at any time after the occurrence of any such event and the acceptance of one or more installments from any person thereafter shall not constitute a waiver of Beneficiary's option. Beneficiary's approval of any sale, assignment, transfer, pledge, disposition, encumbrance or other lien or failure to exercise said option with respect thereto shall not be construed as a waiver of the provisions hereof with regard to any subsequent transaction.

5.04 Sale. In any sale under this Trust Deed 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 marshaling 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, its officers, agents, and employees, may purchase at any such sale. Beneficiary and each of its officers 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 its officers 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.

5.05 Cumulative Remedies. All remedies under this Trust Deed 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 under Section 1.15 shall not constitute a waiver of the default or of any of the remedies provided in this Trust Deed. 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.

5.06 Receiver or Trustee-in-Possession. Upon taking possession of all or any part of the Trust Property, Trustee, Beneficiary, or a receiver may use, operate, manage, and control the Trust Property and make expenditures for such purposes as deemed reasonably necessary by Beneficiary.

5.07 Application of Proceeds. All proceeds realized from the exercise of the rights and remedies under this Section 5 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 6.08 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.

5.08 Deficiency. No sale or other disposition of all or any part of the Trust Property pursuant to this Section 5 shall be deemed to relieve Grantor of any 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 from or upon 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.

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

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 Trust Deed.

6.02 Reconveyance by Trustee. At any time upon the request of Beneficiary, payment of Trustee's fees, if any, and presentation of this Trust Deed, 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 (Intentionally Omitted)

6.04 Notice. Except as otherwise provided in this Trust Deed, all notices pertaining to this Trust Deed shall be provided as set forth in Section 7.7 of the Agreement.

6.05 Substitute Trustee. In the event of dissolution or resignation of Trustee, or otherwise at Beneficiary's sole option, 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).

6.06 Trust Deed Binding on Successors and Assigns. This Trust Deed shall be binding upon 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 Trust Deed, the Trust Property, and the Obligations in such manner as Beneficiary deems appropriate in its sole discretion, without notice to or approval by Grantor and without impairing Grantor's liability for the Obligations.

6.07 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 (collectively, "**Claims**"), including but not limited to reasonable attorney fees and court costs, arising out of or in connection with Trustee's or Beneficiary's interest under this Trust Deed, except Grantor shall not be liable to the extent any Claims relate to Beneficiary's gross negligence or willful misconduct, or acts performed by Beneficiary or Trustee in violation of law.

6.08 Expenses and Attorney Fees. If Beneficiary refers any of the Obligations to an attorney for collection or seeks legal advice following a default; if Beneficiary is the prevailing party in any litigation instituted in connection with any of the Obligations; or if Beneficiary or any other person initiates any judicial or non-judicial action, suit, or proceeding in connection with any of the Obligations or the 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 an attorney 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 its attorney 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 Trust Deed and, if not paid upon demand, shall bear interest at the rate specified in the Agreement.

6.09 Applicable Law; Jurisdiction; Venue. This Trust Deed and the validity, interpretation, performance, foreclosure, and enforcement of the Trust Deed shall be governed by the laws of the State of Oregon, and for such purposes the parties hereby consent and agree to submit to the personal jurisdiction of the state courts of the State of Oregon for the county in which the property is located.

6.10 Captions. The captions and titles used in this Trust Deed 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 Trust Deed.

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

6.13 Entire Agreement. Except as otherwise set forth herein, this Trust Deed 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 Trust Deed that is not contained herein, or incorporated herein by reference, shall be binding or valid.

6.14 Non-Residential Property. Grantor covenants and warrants that the Property is used and will only be used by Grantor exclusively for non-residential purposes.

6.15 Standard for Discretion. In the event this Trust Deed 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.

6.16 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.

GRANTOR:

WESTERN RIVERS CONSERVANCY,
An Oregon nonprofit public benefit corporation

By: 

Name: Sue Doroff
Title: President

Attachments:

Exhibit A - legal description (See Paragraph C above)
Exhibit B - title exceptions (See Section 1.03 above)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF Oregon)
COUNTY OF Multnomah) ss.

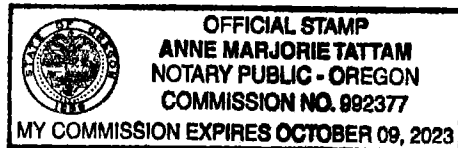
On November 1, 2019, before me, Anne Marjorie Tattam, Notary Public, personally appeared Sue Doroff, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Oregon that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: 

Print Name: Anne Marjorie Tattam



NOTARY SEAL

Exhibit A - Legal Description

The Property is situated in Klamath County, Oregon and is described as follows:

PARCEL ONE:

A PARCEL OF LAND LOCATED IN SECTIONS 8, 9, 10, 11, 16, 17, 18, 19, 20, AND 21, TOWNSHIP 30 SOUTH, RANGE 10 EAST, OF THE WILLAMETTE MERIDIAN, ALSO KNOWN AS PARCEL 2 OF LAND PARTITION 18-98 AS RECORDED IN THE DEED VOLUMES OF KLAMATH COUNTY, OREGON; MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SECTION CORNER COMMON TO SECTIONS 7, 8, 18 & 17, SAID TOWNSHIP AND RANGE; THENCE NORTH 00°50'33" WEST 1319.91 FEET TO THE SOUTH 1/16 CORNER COMMON TO SECTIONS 7 AND 8, SAID TOWNSHIP AND RANGE; THENCE SOUTH 89°29'27" EAST 5311.86 FEET TO THE SOUTH 1/16 CORNER COMMON TO SECTIONS 8 AND 9, SAID TOWNSHIP AND RANGE, THENCE NORTH 00°05'38" EAST 1326.08 FEET TO THE 1/4 CORNER COMMON TO SAID SECTIONS 8 AND 9; THENCE SOUTH 89°08'01" EAST 2635.16 FEET TO THE CENTER 1/4 CORNER OF SAID SECTION 9; THENCE SOUTH 00°09'55" WEST 2650.03 FEET TO THE 1/4 CORNER COMMON TO SECTIONS 9 AND 16, SAID TOWNSHIP AND RANGE; THENCE SOUTH 00°00'48" WEST 5277.74 FEET TO THE 1/4 CORNER COMMON TO SECTIONS 16 AND 21, SAID TOWNSHIP AND RANGE; THENCE SOUTH 00°01'37" EAST 2632.45 FEET TO THE CENTER 1/4 CORNER OF SAID SECTION 21; THENCE NORTH 89°20'39" WEST 1318.29 FEET TO THE CENTER-WEST 1/16 CORNER OF SAID SECTION 21; THENCE SOUTH 00°06'28" EAST 1318.36 FEET TO THE SOUTHWEST 1/16 CORNER OF SAID SECTION 21; THENCE SOUTH 89°23'53" EAST 1316.42 FEET TO THE CENTER-SOUTH 1/16 CORNER OF SAID SECTION 21; THENCE SOUTH 00°01'37" EAST 1317.10 FEET TO THE 1/4 CORNER COMMON TO SECTIONS 21 AND 28, SAID TOWNSHIP AND RANGE; THENCE NORTH 89°27'07" WEST 2629.08 FEET TO THE SECTION CORNER COMMON TO SECTIONS 20, 21, 28 AND 29, SAID TOWNSHIP AND RANGE; THENCE NORTH 89°41'09" WEST 666.98 FEET TO THE EAST-EAST 1/64 CORNER COMMON TO SAID SECTIONS 20 AND 29; THENCE NORTH 00°07'18" WEST 2641.86 FEET TO THE CENTER- EAST-EAST 1/64 CORNER OF SAID SECTION 20; THENCE NORTH 89°27'31" WEST 1991.75 FEET TO THE CENTER 1/4 CORNER OF SAID SECTION 20; THENCE NORTH 00°04'43" EAST 2636.38 FEET TO THE 1/4 CORNER COMMON TO SECTIONS 17 AND 20, SAID TOWNSHIP AND RANGE; THENCE NORTH 89°31'05" WEST 2643.31 FEET TO THE SECTION CORNER COMMON TO SECTIONS 17, 18, 19 AND 20, SAID TOWNSHIP AND RANGE; THENCE SOUTH 00°06'20" WEST 2633.63 FEET TO THE 1/4 CORNER COMMON TO SECTIONS 19 AND 20; THENCE NORTH 89°35'10" WEST 2636.13 FEET TO THE CENTER 1/4 CORNER OF SAID SECTION 19; THENCE NORTH 00°11'53" EAST 2646.51 FEET TO THE 1/4 CORNER COMMON TO SECTIONS 18 AND 19, SAID TOWNSHIP AND RANGE; THENCE NORTH 00°01'32" WEST 2644.75 FEET TO THE CENTER 1/4 CORNER OF SAID SECTION 18; THENCE SOUTH 89°17'07" EAST 1319.05 FEET TO THE CENTER-EAST 1/16 CORNER OF SAID SECTION 18; THENCE NORTH 00°02'27" EAST 2644.16 FEET TO THE EAST 1/16 CORNER COMMON TO SECTIONS 7 AND 18, SAID TOWNSHIP AND RANGE; THENCE SOUTH 89°16'09" EAST 1322.12 FEET TO THE POINT OF BEGINNING ALSO KNOWN AS UNSURVEYED PARCEL 2 OF LAND PARTITION 18-98, SAID LAND PARTITION BEING SITUATED IN SECTION 8, 9, 10, 11, 16, 17, 18, 19, 20 AND 21 IN TOWNSHIP 30 SOUTH RANGE 10 EAST, WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON.

PARCEL TWO:

NE1/4 NW1/4 OF SECTION 20, TOWNSHIP 30 SOUTH, RANGE 10 EAST OF THE WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON.

Exhibit B - Title Exceptions

SPECIAL EXCEPTIONS:

6. The 2019-2020 Taxes: A lien not yet due or payable.
8. Special Assessment disclosed by the Klamath tax rolls:
For: Klamath Lake Timber Fire Patrol
9. Special Assessment disclosed by the Klamath tax rolls:
For: Klamath Lake Grazing Fire Patrol
12. Agreement and the terms and conditions contained therein
Purpose: Reservations
Recorded: September 15, 1924
Volume: 64, page 443, Deed Records
14. Reservation of Oil, gas, minerals, or other subsurface rights, except water, including all other terms and provisions contained therein, in deed from Helen Lotches Merritt and John Jackson, Jr., in trust.
Recorded: February 7, 1957
Volume: 289, page 489
The Company makes no representation as to the present ownership of any such interests. There may be leases, grants, exceptions or reservations of interests that are not listed.
16. The provisions contained in documents,
Recorded: December 26, 1967,
Instrument No.: M67, page 10023
17. Terms, provisions and conditions, including but not limited to maintenance provisions, contained in appurtenant easement,
Recorded: April 22, 1968
Instrument No.: M68 3131
18. An easement including the terms and provisions thereof, affecting the portion of said premises and for the purposes stated therein as set forth in instrument:
Granted To: United States of America
Recorded: December 10, 1973
Volume: M73, page 15871
20. Water Deliver Easements, including the terms and provisions thereof,
Recorded: December 10, 2003
Volume: M03, pages 90211 and 90225
21. Water Delivery Easements, including the terms and provisions thereof,
Recorded: December 10, 2004
Volume: M03, pages 90230, 90234 and 90238