

**2019-014269**

**Klamath County, Oregon**

12/09/2019 03:20:00 PM

Fee: \$127.00

**FIRST AMERICAN**

*NCS - 983367 - OK 1*

After recording return to:  
Investment Property Exchange Services, Inc.  
3100 W. Ray Road, Suite 141  
Chandler, AZ 85226

All tax statements should be sent to:  
Clement S. Elgazzar, Trustee  
506 Peppertree Road  
Walnut Creek, CA 94598

**1. Document Title**

TRUST DEED

**2. Trustor**

Clement S. Elgazzar, Trustee of the Clement S. Elgazzar Investment Trust dated  
1/29/2010

**3. Trustee**

First American Title Insurance Company, a Nebraska corporation

**4. Beneficiary**

Investment Property Exchange Services, Inc., as Qualified Intermediary under  
Exchange No. EX-03-19454-PR

Property: 1111 Main Street, Klamath Falls, OR 97601  
Tax Parcel ID: R371270, R371305, R371298

## **TRUST DEED**

**THIS TRUST DEED**, made this 9<sup>th</sup> day of December, 2019, between Clement S. Elgazzar Investment Trust dated 1/19/2010, Grantor, and to First American Title Insurance Company, as Trustee, and to the order of, Investment Property Exchange Services, Inc., pursuant to its interest in the Promissory Note hereafter mentioned and in the benefits provided by this Trust Deed, as Beneficiary.

### **WITNESSETH:**

Grantor irrevocably grants, bargains, sells and conveys to Trustee, in trust, with power of sale, the property in Douglas County, Oregon, described as:

LEGAL DESCRIPTION: Real property in the County of Klamath, State of Oregon, described as follows:

#### **PARCEL 1:**

A TRACT OF LAND SITUATED IN THE NORTHEAST 1/4 NORTHEAST 1/4 OF SECTION 32 AND THE SOUTHEAST 1/4 SOUTHEAST 1/4 OF SECTION 29, TOWNSHIP 38 SOUTH, RANGE 9 EAST OF THE WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTHERLY LINE OF PINE STREET AND THE EASTERLY LINE OF ELEVENTH STREET IN THE CITY OF KLAMATH FALLS, OREGON, THENCE NORTHEASTERLY ALONG SAID SOUTHERLY LINE OF PINE STREET 170 FEET TO A POINT THEREON DISTANT 50 FEET SOUTHWESTERLY ALONG SAID PINE STREET FROM THE MOST WESTERLY CORNER OF LOT 5, BLOCK 3, HOT SPRINGS ADDITION TO THE CITY OF KLAMATH FALLS, OREGON, THENCE SOUTHEASTERLY AND PARALLEL WITH SAID EASTERLY LINE OF ELEVENTH STREET 112 FEET; THENCE SOUTHWESTERLY PARALLEL TO SAID PINE STREET, 50 FEET; THENCE SOUTHEASTERLY PARALLEL WITH ELEVENTH STREET 8 FEET, THENCE NORTHEASTERLY AND PARALLEL WITH THE NORTHERLY LINE OF MAIN STREET IN THE CITY OF KLAMATH FALLS, OREGON, 125 FEET; THENCE SOUTHEASTERLY AND PARALLEL WITH SAID EASTERLY LINE OF ELEVENTH STREET 120 FEET TO SAID NORTHERLY LINE OF MAIN STREET AT A POINT THEREON DISTANT 50 FEET SOUTHWESTERLY FROM THE SOUTHWEST CORNER OF LOT 6, BLOCK 3, HOT SPRINGS ADDITION TO THE CITY OF KLAMATH FALLS, OREGON, THENCE SOUTHWESTERLY ALONG SAID NORTHERLY LINE OF MAIN STREET 245 FEET TO THE NORTHEAST CORNER OF MAIN STREET AND ELEVENTH STREET, THENCE NORTHWESTERLY ALONG THE EASTERLY LINE OF ELEVENTH STREET TO THE POINT OF BEGINNING.

SUBJECT TO THE ALLEY EXISTING IN SAID BLOCK 3, A PORTION OF WHICH IS INCLUDED IN THE ABOVE DESCRIPTION.

#### **PARCEL 2:**

A TRACT OF LAND SITUATED IN THE NORTHEAST 1/4 NORTHEAST 1/4 OF SECTION 32,

TOWNSHIP 38 SOUTH, RANGE 9, EAST OF THE WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE POINT ON THE SOUTHERLY LINE OF PINE STREET WHICH IS DISTANT 50 FEET SOUTHWESTERLY ALONG SAID PINE STREET FROM THE MOST WESTERLY CORNER OF LOT 5, BLOCK 3, HOT SPRINGS ADDITION, TO THE CITY OF KLAMATH FALLS, OREGON AND THENCE RUNNING SOUTHEASTERLY AND PARALLEL WITH THE EASTERLY LINE OF ELEVENTH STREET A DISTANCE OF 112 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION, THENCE SOUTHWESTERLY AND PARALLEL TO SAID PINE STREET 50 FEET, THENCE, SOUTHEASTERLY AND PARALLEL WITH ELEVENTH STREET 8 FEET, THENCE, NORTHEASTERLY AND PARALLEL WITH THE NORTHERLY LINE OF MAIN STREET A DISTANCE OF 50 FEET, MORE OR LESS, THENCE, NORTHWESTERLY AND PARALLEL WITH ELEVENTH STREET A DISTANCE OF 8 FEET, MORE OR LESS, TO SAID TRUE POINT OF BEGINNING.

PARCEL 3:

A PARCEL OF LAND IN THE NORTHEAST 1/4 NORTHEAST 1/4 OF SECTION 32 AND IN THE SOUTHEAST 1/4 SOUTHEAST 1/4 OF SECTION 29, ALL IN TOWNSHIP 38 SOUTH, RANGE 9 EAST OF THE WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON, DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST SOUTHERLY CORNER OF LOT 6 IN BLOCK 3 OF HOT SPRINGS ADDITION TO THE CITY OF KLAMATH FALLS, OREGON, THENCE NORTHWESTERLY AT RIGHT ANGLES TO MAIN STREET 120 FEET, THENCE SOUTHWESTERLY PARALLEL WITH MAIN STREET, 50 FEET, THENCE SOUTHEASTERLY AT RIGHT ANGLES TO MAIN STREET 120 FEET, THENCE NORTHEASTERLY ALONG THE NORTHERLY LINE OF MAIN STREET 50 FEET TO THE POINT OF BEGINNING, EXCEPTING AND RESERVING FROM THE ABOVE DESCRIBED LANDS THE MOST NORTHERLY 8 FEET FOR AN ALLEY.

(the "Property") together with all and singular the tenements, hereditaments and appurtenances and all other rights thereunto belonging or in anywise now or hereafter appertaining, and the rents, issues and profits thereof and all fixtures now or hereafter attached to or used in connection with the property.

FOR THE PURPOSE OF SECURING PERFORMANCE of each agreement of Grantor herein contained and contained in that certain Promissory Note made by Grantor to Trustee for the benefit of Beneficiary on even date herewith, in the amount of One Million Three Hundred Eighty-Eight Thousand Six Hundred Fifty-Four (\$1,388,654.00) Dollars, payable to Trustee for the benefit of Beneficiary.

Should Grantor, prior to satisfaction of the Promissory Note, either agree to, attempt to, or actually sell, convey, or assign all, or any part, of the Property, or all, or any part of Grantor's interest in the Property without first obtaining the written consent or approval of Beneficiary, then, at Beneficiary's option, all obligations secured by this instrument, irrespective of the maturity dates expressed therein, or herein, shall become immediately due and payable.

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

1. Grantor will timely perform, or cause to be timely performed, all of the obligations.
2. To protect, preserve and maintain the property in good condition and repair; not to remove or demolish any building or improvement thereon; not to commit or permit any waste of the Property.
3. To complete or restore promptly and in good and habitable condition any building or improvement which may be constructed, damaged or destroyed thereon, and pay when due all costs incurred therefor.
4. To comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting the Property.
5. To not make any change in the use of the Property.
6. To not do or permit to be done thereon anything, that may in any way impair the security of this Trust Deed.
7. To not permit any portion of the Property to be used as a borrow pit, land fill or dump.
8. To not request or permit a change in zoning or land use classification from agricultural use.
9. To not initiate, join in, or consent to any change in the current use of the Property or in any zoning ordinance, private restrictive covenant, assessment proceedings or other public or private restriction limiting or restricting the uses that may be made of the Property or any part thereof or in any way change the boundaries of the Property (including without limitation, any agreed boundary line changes or lot line adjustments) without the prior written consent of Beneficiary.
10. To provide and continuously maintain insurance on the buildings now or hereafter erected on the Property against loss or damage by fire and such other hazards as Beneficiary may from time-to-time require, in an amount of not less than their full insurable value, written in companies acceptable to Beneficiary, with loss payable to the latter; all policies of insurance shall be delivered to the Beneficiary as soon as issued; if the Grantor shall fail for any reason to procure any such insurance and to deliver the policies to Beneficiary at least fifteen (15) days prior to the expiration of any policy of insurance now or hereafter placed on the buildings, the Beneficiary may procure the same at Grantor's expense. The amount collected under any fire or other insurance policy may be applied by Beneficiary upon any indebtedness secured hereby and in such order as Beneficiary may determine, or at option of Beneficiary the entire amount so collected, or any part thereof, may be released to Grantor. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

11. To keep the Property free from construction liens and to pay all taxes, assessments, water user fees and water district assessments levied upon the Property and other charges that may be levied or assessed upon or against the Property before any part of such taxes, assessments and other charges become past due or delinquent and promptly deliver receipts therefor to Beneficiary; should the Grantor fail to make payment of any taxes, assessments, insurance premiums, liens or other charges payable by Grantor, either by direct payment or by providing Beneficiary with funds with which to make such payment, Beneficiary may, at its option, make payment thereof, and the amount so paid, with interest at the rate of ten (10%) per cent per annum, shall be added to and become a part of the debt secured by this Trust Deed, without waiver of any rights arising from breach of any of the covenants herein set forth and for such payments, with interest as aforesaid, the property hereinbefore described, as well as the Grantors, shall be bound to the same extent that they are bound for the payment of the obligation herein described, and all such payments shall be immediately due and payable without notice, and the nonpayment thereof shall, at the option of Beneficiary, render all sums secured by this Trust Deed immediately due and payable and constitute a breach of this Trust Deed.

12. To pay all costs, fees and expenses of this trust including the cost of title search as well as the other costs and expenses of the Trustee incurred in connection with or in enforcing this obligation and Trustee's and attorney's fees actually incurred.

13. To appear in and defend any action or proceeding purporting to affect the security rights or powers of Beneficiary or Trustee; and in any suit, action or proceeding in which the Beneficiary or Trustee may appear, including any suit for the foreclosure of this deed, to pay all costs and expenses, including evidence of title and the Beneficiary's or Trustee's attorney's fees; the amount of attorney's fees in all cases shall be fixed by the trial court and in the event of an appeal from any judgment or decree of the trial court, Grantor further agrees to pay such sum as the appellate court shall adjudge reasonable as the Beneficiary's or Trustee's attorney's fees on such appeal.

It is mutually agreed that:

14. In the event that any portion or all of the Property shall be taken under the right of eminent domain or condemnation, Beneficiary shall have the right, if it so elects, to require that all or any portion of the monies payable as compensation for such taking, which are in excess of the amount required to pay all reasonable costs, expenses and attorney's fees necessarily paid or incurred by Grantor in such proceedings, shall be paid to Beneficiary and applied by Beneficiary first upon any reasonable costs and expenses and attorney's fees, both in the trial and appellate courts, necessarily paid or incurred by Beneficiary in such proceedings, and the balance applied upon the indebtedness secured hereby; and Grantor agrees, at its own expense, to take such actions and execute such instruments as shall be necessary in obtaining such compensation, promptly upon Beneficiary's request.

15. At any time and from time to time upon written request of the Beneficiary, payment of its fees and presentation of this deed and the notes for endorsement (in

case of full reconveyance, for cancellation), without affecting the liability of any person for the payment of the indebtedness, Trustee may (a) consent to the making of any map or plat of the Property; (b) join in granting any easement or creating any restriction thereon; (c) join in any subordination or other agreement affecting this deed or the lien or charge thereof; (d) reconvey, without warranty, all or any part of the Property. The Grantee in any reconveyance may be described as the "person or persons legally entitled thereto," and the recitals therein of any matters or facts shall be conclusive proof of the truthfulness thereof.

16. TIME IS OF THE ESSENCE of the Promissory Note and this Trust Deed, and every term, condition and obligation herein mentioned. Upon any default by Grantor hereunder, Beneficiary may at any time without notice, either in person, by agent or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of the property or any part thereof, in its own name sue or otherwise collect the rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees upon any indebtedness secured hereby, and in such order as Beneficiary may determine.

17. The entering upon and taking possession of the Property, the collection of such rents, issues and profits, or the proceeds of fire and other insurance policies or compensation or awards for any taking or damage of the property, and the application or release thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

18. Upon default by Grantor in payment of any indebtedness secured hereby or in Grantors' performance of any agreement hereunder, time being of the essence with respect to such payment and/or performance, the Beneficiary may declare all sums secured hereby immediately due and payable. In such an event the Beneficiary may elect to proceed to foreclose this Trust Deed in equity as a mortgage or direct the Trustee to foreclose this Trust Deed by advertisement and sale, or may direct the Trustee to pursue any other right or remedy, either at law or in equity, which the Beneficiary may have. In the event the Beneficiary elects to foreclose by advertisement and sale, the Beneficiary or the Trustee shall execute and cause to be recorded a written notice of default and election to sell the property to satisfy the obligation secured hereby whereupon the Trustee shall fix the time and place of sale, give notice thereof as then required by law and proceed to foreclose this Trust Deed in the manner provided in ORS 86.735 to 86.795.

19. After the Trustee has commenced foreclosure by advertisement and sale, and at any time prior to five (5) days before the date the Trustee conducts the sale, the Grantor or any other person so privileged by ORS 86.753, may cure the default or defaults. If the default consists of a failure to pay, when due, sums secured by the Trust Deed, the default may be cured by paying the entire amount due at the time of the cure other than such portion as would not then be due had no default occurred. Any other default that is capable of being cured may be cured by tendering the performance required under the obligation or Trust Deed. In any case, in addition to curing the default

or defaults, the person effecting the cure shall pay to the Beneficiary all costs and expenses actually incurred in enforcing the obligation of the Trust Deed together with Trustee's and attorney's fees not exceeding the amounts provided by law.

20. Otherwise, the sale shall be held on the date and at the time and place designated in the notice of sale or the time to which the sale may be postponed as provided by law. The Trustee may sell the property either in one parcel or in separate parcels and shall sell the parcel or parcels at auction to the highest bidder for cash payable at the time of sale. Trustee shall deliver to the purchaser its deed in form as required by law conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in the deed of any matters of fact shall be conclusive proof of the truthfulness thereof. Any person, excluding the Trustee, but including the Grantor and Beneficiary, may purchase at the sale.

21. When Trustee sells pursuant to the powers provided herein, Trustee shall apply the proceeds of sale to payment of (1) the expenses of sale, including the compensation of the Trustee and a reasonable charge by Trustee's attorneys, (2) to the obligation secured by the Trust Deed, (3) to all persons having recorded liens subsequent to the interest of the Trustee in the Trust Deed as their interests may appear in the order of their priority and (4) the surplus, if any, to the Grantor or to any successor in interest entitled to such surplus.

22. Beneficiaries may from time to time appoint a successor or successors to any Trustee named herein or to any Successor Trustee appointed hereunder. Upon such appointment, and without conveyance to the Successor Trustee, the latter shall be vested with all title, powers and duties conferred upon any Trustee herein named or appointed hereunder. Each such appointment and substitution shall be made by written instrument executed by Beneficiary, which, when recorded in the mortgage records of the county or counties in which the property is situated, shall be conclusive proof of proper appointment of the Successor Trustee.

23. Trustee accepts this trust when this deed, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other deed of trust or of any action or proceeding in which Grantor, Beneficiary or Trustee shall be a party unless such action or proceeding is brought by Trustee.

24. Trustee and Beneficiary acknowledge and agree that this Trust Deed is subject to the Reconveyance of Trust Deed attached as Exhibit A to the Promissory Note, and that upon satisfaction of the Promissory Note, this Trust Deed shall be reconveyed to Grantor and all terms and obligations under this Trust Deed shall be extinguished.

The Grantor covenants and agrees to and with the Beneficiary and the Beneficiary's successor in interest that the Grantor is lawfully seized in fee simple of the real property and has a valid, encumbered title thereto and that the Grantor will warrant and forever defend the same against all persons whomsoever, save and except for the interest of the Trustee and the beneficiary identified in a first Deed of Trust encumbering

the property; that Deed of Trust being recorded as document number \_\_\_\_\_,  
Official Records, Douglas County, Oregon.

The Grantor warrants that the proceeds of the loan represented by the above-described Promissory Note and this Trust Deed are for an organization or are for business or commercial purposes.

Subject to the due on sale clause hereinabove appearing, this Trust Deed applies to, inures to the benefit of and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, personal representatives, successors and assigns. The term beneficiary shall mean the holder and owner, including pledgee, of the promissory note secured hereby, whether or not named as a beneficiary herein.

Beneficiary, by accepting this Trust Deed and causing the same to be recorded, acknowledges its approval and acceptance of the terms herein set forth.

In construing this Trust Deed, it is understood that the Granters, Trustee and/or Beneficiary may each be more than one person; that if the context so requires, the singular shall be taken to mean and include the plural, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

**IN WITNESS WHEREOF**, the Grantor has executed this instrument the day and year first above written.

[SIGNATURES BEGIN NEXT PAGE]



"GRANTOR"

CLEMENT S. ELGAZZAR INVESTMENT  
TRUST DATED 1/19/2010

By: [Signature]  
Clement S. Elgazzar, as Trustee

SEE ATTACHED FOR PROPER  
CALIFORNIA NOTARY  
ACKNOWLEDGEMENT

STATE OF OREGON                     )  
                                                      )ss.  
County of Klamath                     )

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_, 2019, by  
\_\_\_\_\_.

\_\_\_\_\_  
Notary Public for California  
My Commission Expires: \_\_\_\_\_

"TRUSTEE"

INVESTMENT PROPERTY EXCHANGE  
SERVICES, INC.

By: \_\_\_\_\_  
Its: \_\_\_\_\_

STATE OF OREGON                     )  
                                                      )ss.  
County of Multnomah                     )

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_, 2019, by  
\_\_\_\_\_.

\_\_\_\_\_  
Notary Public for Oregon  
My Commission Expires: \_\_\_\_\_

## CALIFORNIA ALL PURPOSE ACKNOWLEDGMENT

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 CALIFORNIA )

COUNTY OF Contra Costa )

On 12/07/2019 before me, Shahrokh Shamloo Notary Public,

Date

(here insert name and title of the officer)

personally appeared Clement S. ElGazzar

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 California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature: Shahrokh Shamloo (Seal)

OPTIONAL

Description of Attached Document

Title or Type of Document: Deed of Trust Number of Pages: 1

Document Date: 12/7/19 Other: \_\_\_\_\_