

2021-004468

Klamath County, Oregon



00276599202100044680060067

03/25/2021 11:13:05 AM

Fee: \$107.00

ADDRESS FOR TAX STATEMENTS:

20570 Webber Rd
Klamath Falls, OR 97603

WHEN RECORDED, RETURN TO:

Kincaid Law LLC
409 Pine Street
Klamath Falls, OR 97601

TRUST DEED

The tax account numbers for the real property subject to this instrument is No. 103621.

TRUST DEED (this "Trust Deed") is made on March 25, 2021, by Skywagon Ranch, LLC, whose address is 20570 Webber Rd, Klamath Falls, OR 97603 ("Grantor"), to AmeriTitle, whose address is 300 Klamath Ave, Klamath Falls, OR 97601 ("Trustee"), for the benefit of Steve Holmes whose address is PO Box 333, Gold Run, CA 95717-0333 ("Beneficiary").

WHEREAS Beneficiary has loaned Grantor's members the sum of \$150,000.00 that is evidenced by a promissory note dated March 25, 2021, ("the Note") and that, if not sooner paid, is due and payable on April 2, 2027; and

WHEREAS, as a condition to the making of the loan to Grantor's members (Jim Holmes and Betty Holmes), Beneficiary has required, and the members of the Grantor have agreed to execute and deliver, this Trust Deed;

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, and for the purpose of securing the Obligations described in section 1.1 below, Grantor irrevocably grants, bargains, sells, conveys, assigns, and transfers to Trustee in trust for the benefit and security of 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, Oregon, and more particularly described in Exhibit A attached to this Trust Deed and incorporated in it (the "Property");

TOGETHER WITH all interests, estates, including leasehold estates, and rights that Grantor now has or may 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 and all proceeds of them; (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;

TO HAVE AND TO HOLD the 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 1.1 below) are paid, performed, and satisfied in full, then the lien and estate granted by this Trust Deed will be reconveyed.

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

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

ARTICLE 1

PARTICULAR COVENANTS AND WARRANTIES OF GRANTOR

1.1 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 and Grantor's members, under the Note, whether such payment and performance is now due or becomes due in the future;

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

1.2 Payment of Indebtedness and Performance of Covenants. Grantor will duly and punctually pay and perform all the Obligations required by the Note.

1.3 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. Grantor covenants that it will forever defend Beneficiary's and Trustee's rights under this Trust Deed against the adverse claims and demands of all persons.

1.4 Liens. Grantor will pay when due all claims for labor, materials, or supplies that if unpaid might become a lien on all or any portion of the Property. Grantor will not create or permit to be created, any mortgage, deed of trust, lien, security interest, charge, or encumbrance on the Property prior to, on a parity with, or subordinate to the lien of this Trust Deed.

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

1.8 Condemnation. If any part of or interest in the Property is taken or damaged by reason of any public-improvement, eminent-domain, or condemnation proceeding, or in any similar manner (a "Condemnation"), or if Grantor receives any notice or other information regarding such an action, Grantor will give immediate notice of the action to Beneficiary. Beneficiary will be entitled to all compensation, awards, and other payments or relief ("Condemnation Proceeds") up to the full amount of the Obligations, and will 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 the Condemnation. If the Property is taken in its entirety by Condemnation, all Obligations secured by this Trust Deed, at Beneficiary's election, will become immediately due and collectible.

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ARTICLE 2
EVENTS OF DEFAULT AND REMEDIES

2.1 Events of Default. Each of the following events constitutes an event of default under this Trust Deed and under each of the other Loan Documents:

(1) *Nonpayment.* Grantor's or Grantor's members (Jim Holmes and Betty Holmes) failure to pay any of the Obligations within five days after written notice from Beneficiary of the nonpayment, but no notice from Beneficiary is required for nonpayment if during the preceding 12 calendar months Beneficiary (or Beneficiary's agent) has sent notice to Grantor concerning any nonpayment of the Obligations.

(2) *Breach of Loan Document Covenants and Warranties.* Grantor's or Grantor's members (Jim Holmes and Betty Holmes) failure to perform or abide by any covenant or breach of any warranty in the Loan Documents.

(3) *Transfer; Due-on-Sale; Due-on-Encumbrance.* Any sale, gift, conveyance, contract for conveyance, transfer, assignment, mortgage, encumbrance, pledge, or grant of a security interest in all or any part of the Property, or any interest in it, voluntarily, involuntarily, or by the operation of law (a "Transfer"), without Beneficiary's prior written consent.

2.2 Remedies in Case of Default. If an event of default occurs, Beneficiary or Trustee may exercise any one or more of the following rights and remedies, in addition to any other remedies that may be available by law, in equity, or otherwise:

(1) *Acceleration.* Beneficiary may declare all or any portion of the Obligations under the Note immediately due and payable.

(2) *Power of Sale.* Beneficiary may direct Trustee, and Trustee will be empowered, to foreclose this Trust Deed by advertisement and sale under the Oregon Trust Deed Act.

(3) *Foreclosure.* Beneficiary may judicially foreclose this Trust Deed and obtain a judgment foreclosing Grantor's interest in all or any part of the Property and awarding Beneficiary a judgment lien in the amount of any deficiency remaining under the Obligations after sale of the Property by the county sheriff and application of the sale proceeds to the expenses of sale and the Obligations.

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

2.3 Cumulative Remedies. All remedies under this Trust Deed are cumulative and not exclusive. Any election to pursue one remedy does not preclude the exercise of any other remedy. An election by Beneficiary to cure any does 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 impairs the full exercise of that or any other right or remedy or constitute a waiver of the default.

ARTICLE 3
GENERAL PROVISIONS

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

3.2 Reconveyance by Trustee. At any time on 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 Property. The grantee in any reconveyance may be described as the "person or

persons legally entitled thereto," and the recitals of any facts will be conclusive proof of their truthfulness.

3.3 Notice. Except as otherwise provided in this Trust Deed, all notices pertaining to this Trust Deed must be in writing and may be delivered by hand, or mailed by first-class, registered, or certified mail, return receipt requested, postage prepaid, and addressed to the appropriate party at its address set forth at the outset of this Trust Deed. Any party may change its address for receiving notices from time to time by notice to the other parties. Notices given by mail in accordance with this paragraph will be deemed to have been given on the date of mailing; notices given by hand will be deemed to have been given when actually received.

3.4 Substitute Trustee. Beneficiary may at any time substitute one or more trustees to execute the trust hereby created, and the new trustee or trustees will succeed to all the powers and duties of the prior trustee or trustees.

3.5 Trust Deed Binding on Successors and Assigns. This Trust Deed is binding on and inures to the benefit of the successors and assigns of Grantor, Trustee, and Beneficiary. If the Property or any portion of it becomes vested in any person other than Grantor, Beneficiary will have the right to deal with the successor regarding this Trust Deed, the Property, and the Obligations in any manner that Beneficiary deems appropriate in its sole discretion, without notice to or approval by Grantor and without impairing Grantor's liability for the Obligations.

3.6 Indemnity. Grantor will defend and indemnify Beneficiary and Trustee and their respective directors, officers, employees, agents, and attorneys and hold them harmless from and against any and all claims, demands, damages, liabilities, and expenses, including but not limited to attorney fees and court costs, arising out of or in connection with Trustee's or Beneficiary's interest under this Trust Deed, except that Grantor is not required to defend and indemnify Beneficiary and Trustee and hold them harmless for their own negligence, willful misconduct, or acts in violation of applicable law.

3.7 Expenses and Attorney Fees. If Beneficiary refers any of the Obligations to an attorney for collection or seeks legal advice after a default, if Beneficiary is the prevailing party in any litigation instituted in connection with any of the Obligations, or if Beneficiary or any other person initiates any judicial or nonjudicial action, suit, or proceeding in connection with any of the Obligations or the Property (including but not limited to proceedings under federal bankruptcy law, eminent domain, or probate proceedings, or in connection with any state or federal tax lien), and Beneficiary employs an attorney to appear in such an action, suit, or proceeding, or to reclaim, sequester, protect, preserve, or enforce Beneficiary's interests, or to seek relief from a judicial or statutory stay, then in such an event Grantor must 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 them, including but not limited to costs incurred in searching records, the cost of title reports, and the cost of surveyors' reports. Those amounts are secured by this Trust Deed and, if not paid on demand, will bear interest at the rate specified in the Note.

3.8 Authority to Execute Agreement. By signing this Trust Deed, Grantor and each Member warrant that each person signing this Agreement on Grantor's behalf has authority to bind Grantor and that the Member's execution of this Agreement is not in violation of any by-law, covenants, and/or other restrictions governing Grantor.

3.9 Applicable Law. The Trust Deed and its validity, interpretation, performance, and enforcement are governed by Oregon law, without regard to principles of conflicts of laws.

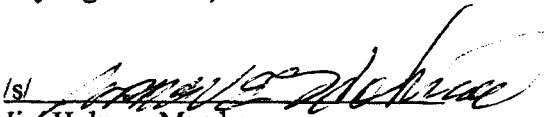
3.10 Captions. The captions to the sections and paragraphs of this Trust Deed are included only for the convenience of the parties and do not define, diminish, or enlarge the rights of the parties or affect the construction or interpretation of any portion of this Trust Deed.

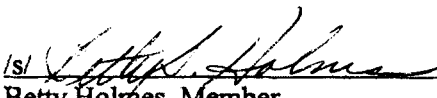
3.11 Severability. If any provision of this Trust Deed is held to be invalid, illegal, or unenforceable, that invalidity, illegality, or unenforceability will not affect any other provisions of this Trust Deed, and the other provisions will be construed as if the invalid, illegal, or unenforceable provision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

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

3.13 Waiver. Any waiver, forbearance, or extension granted by the Beneficiary to the Grantor or any successor in interest of the Grantor under this Trust Deed shall not operate as a release of Grantor or any successor in interest of the Grantor. Any waiver shall not preclude the exercise of any right or remedy of the Beneficiary under this Trust Deed.

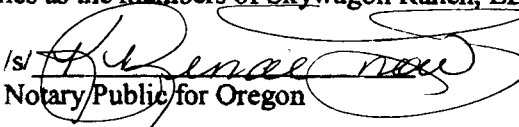
GRANTOR
Skywagon Ranch, LLC

/s/ 
Jim Holmes, Member

/s/ 
Betty Holmes, Member

STATE OF OREGON)
) ss.
County of Klamath)

The foregoing instrument was acknowledged before me on this 25 day of
March, 2021, by Jim Holmes and Betty Holmes as the members of Skywagon Ranch, LLC.

/s/ 
Notary Public for Oregon

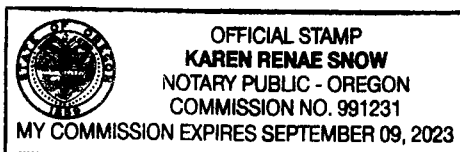


EXHIBIT A

LEGAL DESCRIPTION:

PARCEL 1

TOWNSHIP 40 SOUTH, RANGE 11 EAST OF THE WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON: SECTION 4: GOVERNMENT LOT 18 (SOUTHWEST QUARTER OF NORTHEAST QUARTER); GOVERNMENT LOT 19 (SOUTHEAST QUARTER OF NORTHWEST QUARTER); AND NORTHEAST QUARTER OF SOUTHWEST QUARTER, NORTHWEST QUARTER OF SOUTHEAST QUARTER.

PARCEL 2

THE WEST 33 FEET OF GOVERNMENT LOT 2, ALL THAT PORTION OF GOVERNMENT LOT 2, LYING SOUTHWESTERLY OF THE RIGHT OF WAY OF THE UNITED STATES GOVERNMENT CANAL" F", GOVERNMENT LOTS 3, 4, 5, 6, 11, 12, 13, AND 14 OF SECTION 4; GOVERNMENT LOTS 9, 10, 15, AND 16 OF SECTION 5; ALL IN TOWNSHIP 40 SOUTH, RANGE 11 EAST OF THE WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON.