

CX23-9017
After recording, return to:
Cascade Title Co.
811 Willamette Street
Eugene, Oregon 97401

2023-005743
Klamath County, Oregon
07/11/2023 03:50:02 PM
Fee: \$122.00

TRUST DEED

BETWEEN: Brooks Exchange, LLC, an Oregon Limited Liability Company ("Grantor")
Address: 811 Willamette Street
Eugene, Oregon 97401

AND: Cascade Title Co. ("Trustee")
Address: 811 Willamette Street
Eugene, Oregon 97401

AND: Jeff Brooks and Tena M. Brooks ("Beneficiary")
Address: PO Box 2237
Eugene, OR 97402

DATE: July 11, 2023

AGREEMENTS:

Grantor hereby irrevocably grants, bargains, sells and conveys to Trustee, in trust, for Beneficiary, with power of sale, the real property described on the attached Exhibit A and all interest therein which Grantor may hereafter acquire; and all buildings, improvements, fixtures or appurtenances now or hereafter erected thereon or used in connection with the property, including, but not limited to, all apparatus, equipment, fixtures or articles whether in single units or centrally controlled, used to supply heat, gas, air conditioning, water, light, power, refrigeration, ventilation, or other services; and all built-in-appliances, and any other thing now or hereafter therein or thereon, the furnishing of which by lessors to lessees is customary or appropriate, including screens, window shades, storm doors and windows, floor coverings, screen doors, awnings, tanks, shrubbery, trees, stoves and water heaters; all of which are intended to be and are hereby declared a part of real estate whether physically attached thereto or not; and all easements, water rights, and other rights or privileges now or hereafter appurtenant to the land, and all of the rents, issues, and profits of the premises, which are hereby pledged, assigned and transferred to Trustee, whether now due or hereafter to become due (hereinafter referred to as the property).

1. This Trust Deed is to secure payment of a promissory note, a copy of which is attached hereto as Exhibit B, in the face amount of \$202,966.37 (the Promissory Note); and to secure the performance of all of the covenants and obligations of Grantor contained or referred to herein.

2. Grantor covenants:

2.1 Grantor will pay the Promissory Note and all extensions or renewals thereof, if any, together with all interest accrued thereon, promptly as the same become due.

2.2 Grantor will pay when due all taxes, assessments and other governmental rates and charges against the property (including those heretofore due), and will furnish Beneficiary, upon request,

duplicate receipts therefor, and all items extended against the property shall be conclusively deemed valid for the purpose of this requirement.

2.3 Grantor is the owner in fee simple of the property subject only to exceptions shown on Exhibit A and is entitled to possession of the property; Grantor has the right to place the lien of this Trust Deed upon the property; Grantor will keep the property free of all other encumbrances, including those of record, whether legal or otherwise, which are or might be prior or superior to the lien of Beneficiary hereunder; Grantor will warrant and defend the same against all claims and demands whatsoever; and Grantor will execute or procure such further assurance of Grantor's title to the property as may be reasonably requested by Beneficiary to protect Beneficiary's security interest.

2.4 Grantor will keep the improvements now or hereafter located upon the property insured against damage by fire with extended coverage, broad form, until the indebtedness secured by this Trust Deed is fully paid, for the full replacement value thereof, in a form and with a company reasonably acceptable to Beneficiary. Such insurance policy or policies shall have mortgagee clauses in favor of, and in the form acceptable to, Beneficiary. In the event of foreclosure of this Trust Deed or other transfer of title to the property in extinguishment of the indebtedness secured by this Trust Deed, all right, title and interest of Grantor in and to any insurance policies then in force shall be passed to the purchaser or grantee. In case of loss, Grantor shall give immediate notice of loss by mail to Beneficiary. In the event of destruction or damage, all insurance proceeds shall be held by Beneficiary. Grantor may elect to rebuild and restore the improvements now or hereafter located on the property by giving written notice thereof to Beneficiary within 60 days from such destruction or damage. In the event Grantor so elects, such rebuilding or restoration shall be promptly commenced and diligently prosecuted. Upon satisfactory proof of expenditure, Beneficiary shall pay or reimburse Grantor from the proceeds for the reasonable costs of repair or restoration. Any insurance proceeds not applied to the cost of repair or restoration shall be applied to the indebtedness secured by this Trust Deed, in addition to any other payments coming due thereon. In the event Grantor does not give a timely notice of election to rebuild or restore, all insurance proceeds shall be paid to Beneficiary to apply upon the indebtedness secured by this Trust Deed, in addition to any other payments coming due thereon. Upon request of Beneficiary, Grantor will furnish a certificate of insurance evidencing compliance with the insurance requirements of this paragraph.

2.5 Grantor will keep the property in good condition and repair, without waste or strip, will not make, suffer or permit any unlawful use of or any nuisance to exist on the property, will not diminish or impair its value by any act or omission to act, and will comply with all requirements of law with respect to the property and the use thereof.

2.6 Grantor will not initiate, join in or consent to any change in any private restrictive covenant or condition, zoning ordinance, other public or private restriction, limiting or defining the uses which may be made of the property or any part thereof, without the prior written consent of Beneficiary.

2.7 Grantor shall not make any improvements or alterations to the property which reduce the value of the property for security purposes without first obtaining the written consent of Beneficiary. Grantor will not remove any portion of the property without first obtaining the written consent of Beneficiary, provided, items of equal or greater value may be substituted for any

improvements, apparatus, appurtenances, fixtures, built-in appliances or equipment now or hereafter used on the property.

Upon request of Beneficiary, Grantor shall certify in writing to Beneficiary or Beneficiary's proposed assignee the amount of principal and interest then owing and whether Grantor has or claims any setoffs or defenses thereto.

3. In the event the ownership of the property or any part thereof becomes vested in a person other than Grantor, Beneficiary may, without notice to Grantor, deal with such successor or successors in interest with reference to this Trust Deed and the obligations hereby secured, either by forbearance to sue or by extending the time for payment of the indebtedness hereby secured, without in any way releasing, discharging or otherwise affecting Grantor's liability hereunder for the indebtedness secured by this Trust Deed.

4. In case the property, or any portion thereof, shall be taken under the right of eminent domain or condemnation, then, as between Grantor and Beneficiary, Beneficiary is entitled to collect and receive all compensation which may be paid for any property taken or for damage to property not taken, and all compensation so received shall be applied first upon any reasonable costs, expenses and attorney's fees necessarily paid or incurred by Beneficiary in such proceeding; and the balance shall be applied upon the indebtedness secured by this Trust Deed. Grantor agrees, at Grantor's expense, to take such action or to execute such instruments as may be necessary in obtaining such compensation, promptly upon Beneficiary's request. It is understood that an agreed sale to a public body or quasi-public body of all or any portion of the property after threat of condemnation constitutes a condemnation as used in this paragraph.

5. It is expressly understood and agreed:

5.1 Should Grantor fail to perform any of the covenants of this Trust Deed, Beneficiary may at Beneficiary's option carry out the same on behalf of Grantor without waiver of such default, and Beneficiary may do any act Beneficiary may deem necessary to protect Beneficiary's security interest. Any expenditures made or charges incurred by Beneficiary for the foregoing purpose shall be repayable by Grantor on demand and shall be secured by this Trust Deed, and shall draw interest until repaid at the rate of 1½ percent per month or the rate of interest on the Promissory Note secured hereby, whichever is greater, but in no event exceeding the highest lawful rate. Beneficiary may, at Beneficiary's option, sue to collect all or any part of the aforementioned expenditures without foreclosing this Trust Deed and without affecting Beneficiary's right to foreclose this Trust Deed at any future time. Nothing herein contained shall require Beneficiary to advance any monies for any purpose or do any act hereunder, and Beneficiary shall not incur any personal liability because of Beneficiary's acts or omissions hereunder.

5.2 Time is material and of the essence hereof, and if default be made in the payment of the debts hereby secured, or an installment, extension or renewal thereof, or of interest, or in the performance of any of the covenants herein contained, or if Grantor or any guarantor of the Promissory Note is adjudicated bankrupt or if a receiver is appointed for any property of Grantor or any guarantor of the Promissory Note, or if Grantor or any guarantor of the Promissory Note shall make an assignment for the benefit of creditors, or if proceedings be instituted to enforce any other lien or charge upon the property, or any part thereof, and within 30 days thereafter Grantor shall not deposit cash or post a bond in lieu of cash in the amount of the alleged debt for the lien or charge sought to be enforced, or if Grantor abandons any of the property, the balance of the unpaid principal with the accrued interest and all other indebtedness secured by this Trust Deed shall, at

Beneficiary's election, become immediately due without notice and Beneficiary may proceed to foreclose this Trust Deed by advertisement and sale or by judicial foreclosure, in the manner provided by law. In addition, Beneficiary may, at Beneficiary's option and without affecting Beneficiary's security interest, apply toward the payment of the indebtedness such sums or any part thereof held by Beneficiary under the provisions of this Trust Deed, or any indebtedness of Beneficiary to Grantor. Beneficiary's failure to exercise any right or option, or waiver of any default, shall not be deemed a waiver of any future right, option or default.

5.3 Grantor assigns to Trustee, for the benefit of Beneficiary, all rents, issues, profits and revenues from the property and hereby assigns any leases in effect or hereafter in effect upon the property or any part thereof. However, until Grantor is in default under this Trust Deed or any obligations secured hereby, Grantor shall have a license to collect and receive (but not more than 30 days prior to accrual) those rents, issues, profits and revenues, and to retain, use and enjoy the same. In the event of default in any of the provisions of this Trust Deed and while the default continues, Grantor hereby authorizes and empowers Beneficiary, Beneficiary's agents or attorneys, at Beneficiary's election, without notice to Grantor, as agents for Grantor, to take and maintain full control of the property; to oust tenants for nonpayment of rents; to lease all or any portion of the property, in the name of Grantor, on such terms as Beneficiary may deem advisable; to make alterations or repairs Beneficiary may deem advisable and deduct the cost thereof from the rent; to receive all rents and income therefrom and issue receipts therefor; and out of the amount or amounts so received to pay the necessary operating expenses and retain or pay the customary charges for thus managing the property; to pay Beneficiary any amount due upon the indebtedness secured by this Trust Deed; to pay taxes, assessments, and premiums of insurance policies, or renewals thereof, on the property, or amounts necessary to carry out any covenant in this Trust Deed contained, Beneficiary to determine which items are to be met first, but to pay any overplus so collected to Grantor, and those exercising this authority shall be liable to the owner only for the amount collected hereunder and the accounting thereof, and as to all others, persons exercising this authority are acting only as agent of the owner in the protection of Beneficiary's security interest. In no event is the right to such management and collection of such rents to affect or restrict the right of Beneficiary to foreclose this Trust Deed in case of default.

5.4 A receiver may be appointed in any proceeding to foreclose this Trust Deed, without regard to the adequacy of the security for the indebtedness or the insolvency of Grantor or the absence of waste or danger of loss or destruction of the property, to possess, manage and control the property, and to collect the rents, issues and profits thereof. Upon a declaration of default under the terms of this Trust Deed, Grantor shall attorn to Beneficiary or to a receiver of the property.

5.5 Beneficiary shall not be required to marshal security and may proceed to foreclose or otherwise realize upon security in such order and in such manner as Beneficiary may determine in Beneficiary's sole discretion.

5.6 Beneficiary and persons authorized by Beneficiary shall have the right to enter and inspect the property at all reasonable times.

5.7 For any reason permitted by law, Beneficiary 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 or appointed hereunder. Each such appointment and substitution shall be made by written instrument executed by Beneficiary,

containing reference to this Trust Deed and its placing of record which, when recorded in the official records of the county in which this Trust Deed is recorded, shall be conclusive proof of proper appointment of the successor trustee.

5.8 Trustee accepts this trust when this Trust Deed, fully executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of a pending sale under any other trust deed 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.

5.9 If Grantor shall be in default as specified above, or if Beneficiary seeks adequate protection of Beneficiary's interest under the Bankruptcy Code, Grantor shall pay to Trustee and Beneficiary all reasonable expenses incurred by Trustee and/or Beneficiary, at any time necessary in Trustee's or Beneficiary's opinion for the protection of Beneficiary's interest or the enforcement of Trustee's or Beneficiary's rights, including, but not limited to, the cost of searching records, obtaining title reports, surveyor's reports, attorney's opinions or title insurance, whether or not in connection with any legal proceeding; and the amount of such expense, with interest thereon from the date incurred at the rate of 1½ percent per month or the rate of interest on the Promissory Note secured hereby, whichever is greater (but in no event exceeding the highest lawful rate), shall be secured by this Trust Deed. If any legal proceeding is commenced to foreclose this Trust Deed or which concerns this Trust Deed in any way or arises from the execution hereof, including appeals, the prevailing party shall be entitled to recover reasonable attorney's fees. If this Trust Deed is foreclosed by judicial procedure, Beneficiary shall, in addition, be entitled to recover at the time the judgment of foreclosure is entered an amount equal to the reasonable attorney's fees and legal expenses which Beneficiary reasonably anticipates will be incurred in enforcing and collecting such judgment.

6. Grantor represents that this Trust Deed is not and at no time will constitute a "residential trust deed" as defined in Oregon law. Where this Trust Deed is foreclosed by judicial procedure, Beneficiary shall be entitled to recover a deficiency judgment against Grantor and any surety, guarantor, successor in interest and any other person obligated upon the obligations secured hereby, and Beneficiary may bring actions, suits and proceedings against Grantor and any surety, guarantor, successor in interest and any other person obligated upon the obligations secured hereby, for any amount by which the unpaid balance of the obligations secured by this Trust Deed exceed the net sale proceeds payable to Beneficiary.

7. The interest rate, payment terms or balance due upon the obligations secured by this Trust Deed may be indexed, adjusted, renewed or renegotiated upon agreement of Grantor and Beneficiary.

***WARNING**

Unless you provide us with evidence of the insurance coverage as required by our contract or loan agreement, we may purchase insurance at your expense to protect our interest. This insurance may, but need not, also protect your interest. If the collateral becomes damaged, the coverage we purchase may not pay any claim you make or any claim made against you. You may later cancel this coverage by providing evidence that you have obtained property coverage elsewhere.

You are responsible for the cost of any insurance purchased by us. The cost of this insurance may be added to your contract or loan balance. If the cost is added to your contract or loan balance, the interest rate on the underlying contract or loan

will apply to this added amount. The effective date of coverage may be the date your prior coverage lapsed or the date you failed to provide proof of coverage.

The coverage we purchase may be considerably more expensive than insurance you can obtain on your own and may not satisfy any need for property damage coverage or any mandatory liability insurance requirements imposed by applicable law.

GRANTOR:

Brooks Exchange, LLC, an Oregon
Limited Liability Company

By: Cascade Exchange Services, Inc., an
Oregon Corporation, Its Member

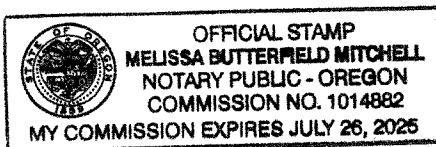
By: [Signature]
Thomas M. McMahon, President

STATE OF OREGON)

) ss.

COUNTY OF LANE)

This instrument was acknowledged before me on July 11, 2023, by Thomas M. McMahon, President of Cascade Exchange Services, Inc., Member of Brooks Exchange, LLC.



[Signature]
Notary Public for Oregon
My commission expires: 7/26/2025

EXHIBIT A

Legal Description

LOT 11 IN BLOCK 9 OF TRACT 1123, ACCORDING TO THE OFFICIAL PLAT THEREOF ON
FILE IN THE OFFICE OF THE COUNTY CLERK OF KLAMATH COUNTY, OREGON.

EXHIBIT B

Copy of Promissory Note NONRECOURSE PROMISSORY NOTE

DATE: July 11, 2023

1. **Promise to Pay.** For value received, Brooks Exchange, LLC, an Oregon limited liability company, herein referred to as "Maker", promises to pay to the order of Jeff Brooks and Tena M. Brooks, herein referred to as "Holder", at a place to be designated in writing by Holder the principal sum of TWO HUNDRED TWO THOUSAND NINE HUNDRED SIXTY SIX AND 37/100THS DOLLARS

(\$ 202,966.37) in lawful money of the United States of America, together with interest from the date hereof, at the rate of zero percent (0.00%) per annum on the unpaid principal amount thereof, until paid, together with all other amounts herein provided.

2. **Payment.** Principal and all accrued interest shall be due and payable no later than 180 days from the date hereof.

3. **Application of Payments.** If Maker shall fail to pay this Note when due, all payments received in payment of this Note, both before and after default, shall be applied first to payment of Holder's costs of collection, including attorney fees, and thereafter in payment of accrued interest, and finally in reduction of principal.

4. **Prepayment.** Maker may prepay any portion of the unpaid balance of this Note without the consent of Holder and without penalty.

5. **Default**

5.1 In the event of default in payment of this Note, time being of the essence hereof, or in the event of default in the terms of any instrument given to secure this Note, Holder shall have the option, without notice of default, to declare the entire unpaid principal sum, together with accrued interest thereon, immediately due and payable. Failure to exercise this option in the event of any default shall not constitute a waiver of the right to exercise the same in the event of any subsequent default.

5.2 Holder's sole and exclusive remedy, as to Maker only, shall be foreclosure of the real property security interest described below, and Holder may not waive such security and bring suit or action against Maker based on the debt evidenced by this Note. This provision shall not apply to Maker's transferee or to subsequent transferees or vestees of the real property securing this Note.

5.3 In the event the real property described in the Trust Deed securing this Note or any part thereof, or any interest therein is sold, agreed to be sold, conveyed, assigned or alienated by Maker, without first having obtained the written consent or approval of Holder, then Holder shall have the right, at Holder's option, to declare all sums and obligations described herein, immediately due and payable.

6. **Attorneys' Fees.** If this Note is placed in the hands of an attorney for collection, Maker shall pay Holder's reasonable attorney fees and collection costs, even though no suit, action or other proceeding is filed. Whether or not the matter proceeds to final judgment or decree, Maker shall pay to Holder, in addition

to costs and disbursements allowed by law, such sum as the court may adjudge reasonable as attorney fees in the suit, action or other proceeding, or in any appeal thereof. Such sum shall include an amount estimated by the court for collecting or enforcing the monetary judgment or award or otherwise enforcing each order, judgment or decree entered in such suit, action or other proceeding.

7. **Security.** This Note is secured by a Trust Deed of even date herewith, executed by Maker, as Grantor, to Cascade Title Co., as Trustee, with Holder as Beneficiary, encumbering certain real property described in the Trust Deed.

8. **Controlling Law.** This Note shall be governed by the laws of the State of Oregon, and venue for any suit, action, or other proceeding hereunder may be in Lane County, Oregon.

9. **Authority.** The person executing this Note on behalf of Maker hereby warrants and acknowledges that such person has been duly granted authority to do so.

10. **Notices to Maker.** Written notice to Maker shall be deemed duly given, made and received upon delivery to Maker in person or three days after deposit in the United States mail in a sealed envelope, first class postage prepaid, addressed to Maker at 811 Willamette Street, Eugene, Oregon 97401, Attention: Thomas M. McMahon.

11. **Holder.** The term "Holder", as used in this Note, shall refer to Holder herein named or Holder's endorsees, successors and assigns.

12. **Partial Invalidity.** If any section or provision of this Note is declared invalid or unenforceable by any court of competent jurisdiction, that determination shall not affect the validity or enforceability of the remaining terms hereof. No such determination in one jurisdiction shall affect any provision of this Note to the extent it is otherwise enforceable under the laws of any other applicable jurisdiction.

13. **Captions.** The captions appearing in this Note are for the convenience of the reader only and shall only be used to construe or interpret this Note.

14. **Binding Effect.** This Note is binding upon Maker and Maker's executors, administrators, successors and assigns; provided that Maker's obligations under this Note shall not be modified without the written consent of Holder.

15. **Nonrecourse.** This Note is nonrecourse as to Maker and subject to the provisions of the Real Property Exchange Agreement between Maker and Exchangor therein, including, without limitation, the nonrecourse provisions and other provisions regarding repayment of this Note as set forth in the Real Property Exchange Agreement.

Brooks Exchange, LLC, an Oregon
Limited Liability Company

By: Cascade Exchange Services, Inc., an
Oregon Corporation, Its Member

By: ****EXHIBIT ONLY****

Thomas M. McMahon, President

Maker