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1 THIS MORTGAGE, made this 3rd day of October, 1968, by VIVIAN N. VAN DATTA,
 2 who was formerly Vivian N. Todd, and JOSEPH D. VAN DATTA, her husband, Mortgagors,
 3 to ALBERT A. MITCHELL, Mortgagee,
 4 WITNESSETH, that said Mortgagors, in consideration of \$750.00 to them paid
 5 by said Mortgagee, do hereby grant, bargain, sell and convey unto said Mortgagee,
 6 his heirs, executors, administrators and assigns, that certain real property
 7 situated in Klamath County, Oregon, bounded and described as follows, to-wit:

8 A tract of land situated in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 3, Township 36 South,
 9 Range 6, E.W.M., Klamath County, Oregon, more particularly described as
 10 follows:

11 Commencing at the Northeast corner of the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 3;
 12 thence, West along the one-sixteenth line lying between the NE $\frac{1}{4}$ NE $\frac{1}{4}$ and
 13 SE $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 3 a distance of 500 feet to the true point of
 14 beginning of this description, which said point is also the Northwest
 15 corner of the tract of land conveyed to Albert A. Mitchell and Betty Mae
 16 Mitchell, husband and wife; thence, South 2°17' East along the West line
 17 of said Mitchell Tract a distance of 140 feet, more or less, to the South-
 18 west corner of said Mitchell Tract which is also the Northwest corner of
 19 the tract of land conveyed to Clifford Daniel Miller by Deed recorded in
 20 Vol. M66 at page 11211 of Klamath County, Oregon Deed Records; thence,
 21 South 79°11'40" West a distance of 179.4 feet, more or less, to the South-
 22 east corner of the tract of land conveyed to Robert A. Scott et ux by
 23 Deed recorded in Vol. M65 at page 3934 of Klamath County, Oregon Deed
 24 Records, which said point is located on the center line of a private 20
 25 foot wide roadway; thence, North 12°04' West (North 13°59' West in said
 26 Scott deed) along the center line of said road, which said center line
 27 is also the East line of said Scott Tract, a distance of 75 feet, more
 28 or less, to the Northeast corner of said Scott Tract, which said point
 29 is also the Southeast corner of the tract of land conveyed to William G.
 30 Biely et ux by Correction Deed recorded in Vol. M68 at page 5218 of
 31 Klamath County, Oregon Deed Records; thence continuing North 12°04' West
 32 along the center line of said road which said center line is also the
 East line of said Biely Tract, a distance of 72.5 feet, more or less, to
 the one-sixteenth line; thence, leaving said road center line and running
 Easterly on said one-sixteenth line to the point of beginning.

TOGETHER WITH full right of ingress and egress to and from the West
 Side Highway by means of said private 20 foot wide roadway, more parti-
 cularly described in Deed to John L. Gross et ux recorded in Vol. M66 at
 page 10168 of Klamath County, Oregon Deed Records, and together with an
 easement for utilities 5 feet in width along the East line of said roadway.

Subject to: Easements and rights of way of record and those apparent on
 the land, including said County Road, said private road and said 5 foot
 wide Easement for utilities along the East side of said private road here-
 inbefore mentioned, and to an Easement for a private road across the East-
 erly 15 feet of said tract of land herein mortgaged; Reservations in
 United States Patents; Agreements relative to the raising and lowering of
 waters of Upper Klamath Lake; Agreement recorded December 19, 1952, in
 Vol. 258 at page 287 of Klamath County, Oregon Deed Records, as corrected
 by Agreement recorded December 27, 1955, in Vol. 280 at page 146 of said
 Deed Records, prohibiting the use of said premises for any resort or com-
 peting commercial use, as more specifically defined in said Agreement for
 a period of 30 years from the date of said Agreement, and also to the
 following building and use restrictions which Mortgagee, his heirs,

Return to: Mr. Albert A. Mitchell
 Harmon Blvd. Box 1994
 Klamath Falls, Oregon 97601

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grantees and assigns covenant and agree to observe and comply with, and which shall run with and bind the land herein mortgaged for the benefit of the lands in Section 3, Township 36 South, Range 6 E.W.M., retained by Mortgagors or by William K. Johnson or heretofore conveyed by Mortgagors or William K. Johnson to other purchasers, and for the benefit of each and every part and parcel of said lands, to-wit:

- (1) That said premises will be used solely for residence or summer homesites;
- (2) That if said premises are subdivided no lot sold or conveyed shall contain less than 5,000 square feet;
- (3) That no buildings, except residences or summer homes and the usual and necessary outbuildings thereto, shall ever be erected thereon; that the ground floor of such residence or summer home, exclusive of open porches and garages, shall not be less than 400 square feet; that all construction, finish and materials shall be of first class quality; that all structures, except those finished in shingles, shakes or logs, shall be painted with at least two coats of paint, varnish or stain. External construction of all structures, including the painting thereof, shall be fully completed within two years from the start of said construction;
- (4) That no residence or summer home shall be erected within 20 feet of any other residence or summer home;
- (5) That no unlawful, noxious or offensive activity shall be carried on upon said premises, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood;
- (6) That trash, garbage or other waste shall not be kept except in sanitary containers; that incinerators or other equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition; that lavatories and toilets shall be built indoors and connected with outside septic tanks and shall be constructed, used and maintained in conformity with and so as to comply with all applicable laws and regulations;
- (7) That the foregoing covenants and restrictions shall be incorporated in and made a part of every deed or conveyance hereafter executed for the purpose of conveying these premises or any portion thereof.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and which may hereafter thereto belong or appertain, and the rents, issues and profits therefrom, and any and all fixtures upon said premises at the time of the execution of this mortgage or at any time during the term of this mortgage.

TO HAVE AND TO HOLD the said premises with the appurtenances unto the said Mortgagee, his heirs, executors, administrators and assigns forever.

This Mortgage is intended to secure the re-payment to Mortgagee of the amounts to be advanced by him, not to exceed the total sum of \$750.00, to construct a 15 foot wide roadway described in the deed from Mortgagors herein to said Albert G. Mitchell and Betty Mae Mitchell, husband and wife, dated

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1 October 2, 1968, which said sum Mortgagors hereby covenant and agree to repay
2 to Mortgagee with interest thereon at the rate of 5% per annum from October 3,
3 1968, on or before October 3, 1969.

4 And said Mortgagors covenant to and with the Mortgagee, his heirs, executors,
5 administrators and assigns, that they are lawfully seized in fee simple of said
6 premises and have a valid, unencumbered title thereto, except as above set forth,
7 and will warrant and forever defend the same against all persons; that they will
8 pay said sum and the interest on or before October 3, 1969; that while any
9 part of said debt or interest remains unpaid they will pay all taxes, assessments
10 and other charges of every nature which may be levied or assessed against said
11 property, or this mortgage, when due and payable and before the same may become
12 delinquent; that they will promptly pay and satisfy any and all liens or encum-
13 brances that are or may become liens on the premises or any part thereof super-
14 ior to the lien of this mortgage; that they will not commit or suffer any waste
15 of said premises.

16 Now, therefore, if said Mortgagors shall keep and perform the covenants
17 herein contained and shall repay said debt and interest as herein agreed, this
18 conveyance shall be void, but otherwise shall remain in full force as a mortgage
19 to secure the performance of all of said covenants and the payment of said debt;
20 it being agreed that a failure to perform any covenant herein, or if a proceed-
21 ing of any kind be taken to foreclose any lien on said premises or any part
22 thereof, the Mortgagee shall have the option to declare the whole amount unpaid
23 on this mortgage at once due and payable, and this Mortgage may be foreclosed
24 at any time thereafter. And if the Mortgagors shall fail to pay any taxes or
25 charges or any liens or encumbrances as above provided for, the Mortgagee may
26 at his option do so, and any payment so made shall be added to and become a
27 part of the debt secured by this mortgage without waiver, however, of any right
28 arising to the Mortgagee for breach of covenant. And this Mortgage may be fore-
29 closed for principal and all sums paid by the Mortgagee at any time while the
30 Mortgagors neglect to repay any sums so paid by the Mortgagee. In the event of
31 any suit or action being instituted to foreclose this mortgage, the Mortgagors
32 agree to pay all reasonable costs incurred by the Mortgagee for title reports

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1 and title search, all statutory costs and disbursements and such further sum as
2 the trial court may adjudge reasonable as plaintiff's attorney's fees in such
3 suit or action, and if an appeal is taken from any judgment or decree entered
4 therein Mortgagors further promise to pay such sum as the appellate court shall
5 adjudge reasonable as plaintiff's attorney's fees on such appeal, all sums to
6 be secured by the lien of this mortgage and included in the decree of foreclosure.

7 Each and all of the covenants and agreements herein contained shall apply to
8 and bind the heirs, executors, administrators and assigns of said Mortgagors and
9 of said Mortgagee respectively.

10 In case suit or action is commenced to foreclose this mortgage, the Court,
11 may upon motion of the Mortgagee, appoint a receiver to collect the rents and
12 profits arising out of said premises during the pendency of such foreclosure,
13 and apply the same, after first deducting all of said receiver's proper charges
14 and expenses, to the payment of the amount due under this mortgage.

15 IN WITNESS WHEREOF, said Mortgagors have hereunto set their hands and seals
16 the day and year first above written.

17 Vivian N. Van Datta
18 Vivian N. Van Datta

19 Joseph D. Van Datta
20 Joseph D. Van Datta

21 STATE OF OREGON)
22 County of Klamath) SS

23 BE IT REMEMBERED, that on this 3d day of October, 1968, before me, the
24 undersigned, a Notary Public in and for said County and State, personally
25 appeared the within named Vivian N. Van Datta, who was formerly Vivian N. Todd,
26 and Joseph D. Van Datta, her husband, known to me to be the identical individuals
27 described in and who executed the within instrument and acknowledged that they
28 executed the same freely and voluntarily.

29 IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official
30 seal the day and year last above written.

31 Gayle McDonald
32 Notary Public for Oregon

33 (SEAL)

34 My Commission Expires: October 3, 1968

April 4, 1971

35 STATE OF OREGON, COUNTY OF KLAMATH, ss.,

36 Filed for record at request of Ganong, Ganong, And Gordon

37 this 3rd day of October A.D. 1968 at 2:38 o'clock P.M., and
38 duly recorded in Vol. M-68 of 8979 Mortgages on Page

DOROTHY ROGERS, County Clerk

By Chas. H. Stewart

Fee 6.00

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Deputy

Mortgage - Page 4.

GANONG, GANONG
& GORDON
ATTORNEYS AT LAW
KLAMATH FALLS, ORE.