

91809

## SECOND TRUST DEED

THIS TRUST DEED, made this 30th day of July, 1974, between Billy L. Wirch and Nancy L. Wirch, husband and wife, as Grantor, Transamerica Title Insurance Co. as Trustee, Tom L. Smith or Patsy Sue Smith, husband and wife, \* as Beneficiary, with right of survivorship WITNESSETH:

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

Lots 25 and 26 in Block 7 of SAINT FRANCIS PARK, Klamath County, Oregon, according to the official plat thereof on file in the records of Klamath County, Oregon.

which said described real property does not exceed three acres, 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 said real estate, to have and to hold unto the said grantee, his heirs and assigns forever, in full and complete satisfaction of each agreement of grantor herein contained and payment of the sum of Four Thousand six hundred thirtyfive and sixtyseven/100 Dollars, with interest thereon according to the terms of a promissory note of even date herewith, payable to beneficiary or order and made by grantor, the final payment of principal and interest hereof, if not sooner paid, to be due and payable August 15, 1979.

To protect the security of this trust deed, grantor agrees:

1. To protect, preserve and maintain said property in good condition and repair; not to remove or demolish any building or improvement thereon; not to commit or permit any waste of said property.

2. To complete or restore promptly and in good and workmanlike manner any building or improvement which may be constructed, damaged or destroyed thereon, and pay when due all costs incurred therefor.

J. To comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting said property; if the beneficiary so requests, to join in executing such financing statements pursuant to the Uniform Commercial Code as the beneficiary may require and to pay for filing same in the proper public office or offices, as well as the cost of all lien searches, made or caused to be made, as may be deemed desirable by the beneficiary.

4. To provide and continuously maintain insurance on the building now or hereafter erected on the said premises against loss or damage by fire and such other hazards as the beneficiary may from time to time require, in

an amount not less than \$ **full insurable** written in companies acceptable to the beneficiary, with loss payable to the latter, at least equal to the benefit to the beneficiary as may be insured

policies of insurance shall be delivered to the beneficiary as soon as insured if the grantor shall fail for any reason to procure any such insurance and to deliver same pursuant to the beneficiary at least fifteen days prior to the expiration of the term of the insurance then or hereafter placed on said 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 to the 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 constitute any default or notice of default hereunder or invalidate any

5. To keep said premises free from mechanics' liens and to pay all assessments and other charges that may be levied or assessed upon or against said premises.

taxes, assessments and other charges that may be levied or assessed against said property before any part of such taxes, assessments and other charges become past due or delinquent and promptly deliver receipts therefor to beneficiaries; should the grantor fail to make payment of any taxes, assessments, or other charges, the beneficiaries shall be obligated to pay the same.

to beneficiary; should the grantor fail to make payments, 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 set forth in the note secured hereby, together with the obligations described in paragraphs 6 and 7 of the trust deed, shall be added to and become a part of the debt secured by the

trust deed, without waiver of any rights arising from breach of any of the covenants hereof and for such payments, with interest as aforesaid, the property hereinbefore described, as well as the grantor, shall be bound to the payment of the obligation here-

same extent that they are bound for the payment of the obligation hereby described, and all such payments shall be immediately due and payable without notice, and the nonpayment thereof shall, at the option of the beneficiary,

6. To pay all costs, fees and expenses of this trust including the cost of the legal fees and expenses of the trustees incurred

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 fees actually incurred.

7. To appear in and defend any action or proceeding purporting to affect the security rights or powers of beneficiary or trustee; and in any such action or proceeding in which the beneficiary or trustee may appear, including the enforcement of this deed, to pay all costs and expenses.

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 mentioned in this paragraph 7 in all cases shall be paid by the defendant in the suit and in the event of an appeal from any judgment

decreed 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.

It is mutually agreed that:

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 such expenses and attorney's fees necessarily paid

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 shall be applied by it first upon any reasonable costs and expenses and attorney's fees paid or incurred by grantor in such proceedings, necessarily paid or incurred by beneficiary.

both in the trial and appellate courts, necessarily paid or incurred by the beneficiary in such proceedings, and the balance applied upon the indebtedness secured hereby; and grantor agrees, at its own expense, to take such action as shall be necessary in obtaining such co-

9. At any time and from time to time upon written request of beneficiary of this deed and the note

The grantor covenants and agrees to and with

fully seized in fee simple of said described real property prior Trust Deed for Commerce Mortg

NOTE: The Trust Deed Act provides that the trustee hereunder must be either a natural person or a corporation authorized to do business under the laws of the State of Maryland.

real property of this state, its subsidiaries, affiliates, agents or branches

[illegible]

12. Upon default by grantor in payment of any indebtedness secured hereby or in his performance of any agreement entered into by him hereunder, the trustee shall have the right to sell and pay payable. In such an event the beneficiary at his election may proceed to foreclose this trust deed in equity as a mortgage in the manner provided by law for the foreclosure of a mortgage, or the trustee may cause the trust deed by advertisement and sale. In the latter event the beneficiary or the trustee shall execute and cause to be recorded his written notice of default and of his election to foreclose. The trustee shall then cause the trust deed to be sold by advertisement and sale. 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 by OR law.

13. After default at any time prior to five days before the date set for the trustee to sell the trustee's sale, the grantor or other person so privileged by ORS § 84.00, may pay to the beneficiary or his successors in interest, respectively, the entire amount then due under the terms of the trust deed and all obligation secured thereby (including costs and expenses actually incurred in enforcing the terms of the obligation and trustee's and attorney's fees, not exceeding \$50 each) other than such portion of the payment as would not be due had no default occurred, and the balance of the default, in which event the balance of the default shall be diminished by the trustee.

14. Otherwise, the sale shall be by auction on the date and at the time or place designated in the order of sale. The trustee may sell said property either in one lump sum or in separate parcels and shall sell the parcel or parcels of land to the highest bidder for cash, payable at the time of sale. Trust shall deliver to the purchaser its deed in form as required by law conveyed in the property so sold, but without any covenant or warranty, express or implied. The recitals in the deed of any purchaser shall be conclusive proof of the truthfulness thereof. Any person, including the trustee, but including no beneficiary, may purchase at the sale.

15. When trustee shall proceed to the powers provided herein, trustee shall apply the proceeds of sale to payment of (1) the expenses of sale, (2) the distribution compensation of the trustee and a reasonable charge by trustee for distribution, (3) to the obligation secured by the trust deed, (4) to all persons having recorded liens subsequent to the interest of the trustee in the trust property, (5) to the beneficiaries of the trust in the order of their priority as provided as their interests may appear in the order of their priority and (6) to surplus, if any, to the grantor or to his successor in interest entitled to such surplus.

16. For any reason permitted by law, any trustee named herein or to be named herein may resign or be removed as trustee named herein or to be named herein. Upon such appointment, and without conveyance to the successor trustee, the latter shall be vested with all title and 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, containing reference to this trust instrument and its place of record, which, when recorded in the office of the County Clerk or Recorder of the county or in the office of the County Clerk or Recorder of the county or in the office of the County Clerk or Recorder of the county, shall constitute an appointment of the successor trustee.

17. Trustee accepts this trust when this deed, duly executed and acknowledged in made a public record as provided by law. Trustee is obligated to notify any party hereto of pending sale under any other deed of trust or of any action or proceeding in which the beneficiary or trustor of this deed is a party, unless such action or proceeding is brought by trustee.

the beneficiary and those claiming under him, that he is lawfully married and has a valid, unencumbered title thereto EXCEPT

ge Company, an Oregon corporation, to  
attorney, who is an active member of the Oregon State Bar, a bank; trust comp  
of Oregon or the United States, or a title insurance company authorized to insure title



9688

and that he will warrant and forever defend the same against all persons whomsoever.

The grantor warrants that the proceeds of the loan represented by the above described note and this trust deed are:  
(a) primarily for grantor's personal, family, household or agricultural purposes (see Important Notice below),  
(b) for an organization, or (c) for a grantor who is a natural person are for business or commercial purposes other than agricultural purposes.

This deed applies to, inures to the benefit of and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term beneficiary shall mean the holder and owner, including pledges, of the note secured hereby, whether or not named as a beneficiary herein. In construing this deed and whenever the context so requires, the masculine gender includes the feminine and the neuter, and the singular number includes the plural.

IN WITNESS WHEREOF, said grantor has hereunto set his hand the day and year first above written.

\*IMPORTANT NOTICE: Delete, by lining out, whichever warranty (a) or (b) is not applicable; if warranty (a) is applicable, the beneficiary MUST comply with the Truth-in-Lending Act and Regulation Z by making required disclosures; for this purpose, if this instrument is to be a FIRST lien to finance the purchase of a dwelling, use S-N Form No. 1305 or equivalent; if this instrument is NOT to be a first lien, use S-N Form No. 1306, or equivalent.

(If the signer of the above is a corporation, use the form of acknowledgment opposite.)

(ORS 93.490)

STATE OF OREGON, } ss.

County of Klamath

August 7, 1974

Personally appeared the above named

Billy L. Wirch and Nancy L.

Wirch and acknowledged the foregoing instrument to be their voluntary act and deed.

Before me:  
(OFFICIAL SEAL)

Judy Blusola

Notary Public for Oregon

My commission expires: 8-12-77

STATE OF OREGON, County of \_\_\_\_\_ ) ss.

Personally appeared \_\_\_\_\_, 19\_\_\_\_

\_\_\_\_\_ and \_\_\_\_\_, who, being duly sworn, each for himself and not one for the other, did say that the former is the president and that the latter is the secretary of \_\_\_\_\_, a corporation,

and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its board of directors; and each of them acknowledged said instrument to be its voluntary act and deed.

Before me:  
Notary Public for Oregon  
My commission expires:

(OFFICIAL SEAL)

# TRUST DEED

(FORM No. 881)

Grantor

Beneficiary

ss.

STATE OF OREGON,

County of Klamath

I certify that the within instrument was received for record on the \_\_\_\_\_ day of August, 1974, at 3:59 o'clock PM, and recorded in book M-74, on page 9887, Record of Mortgages of said County.

Witness my hand and seal of County affixed.

Wm. D. Milne

County Clerk

Deputy

STEVENS & LAW PUE. CO., PORTLAND, ORE.

Transamerica Title

600 main st

Klamath Falls, Or

## REQUEST FOR FULL RECONVEYANCE

To be used only when obligations have been paid.

TO: TRANSAMERICA TITLE INSURANCE COMPANY, Trustee

The undersigned is the legal owner and holder of all indebtedness secured by the foregoing trust deed. All sums secured by said trust deed have been fully paid and satisfied. You hereby are directed, on payment to you of any sums owing to you under the terms of said trust deed or pursuant to statute, to cancel all evidences of indebtedness secured by said trust deed (which are delivered to you herewith together with said trust deed) and to reconvey, without warranty, to the parties designated by the terms of said trust deed the estate now held by you under the same. Mail reconveyance and documents to \_\_\_\_\_

DATED: July 30, 1974

Tom L. Smith

Patsy Sue Smith

Do not lose or destroy this Trust Deed OR THE NOTE which it secures. Both must be delivered to the trustee for cancellation before reconveyance will be made.