

39346

## TRUST DEED

THIS TRUST DEED, made this 18th day of November 1977, between  
 THOMAS A. WHITEMORE

as grantor, William Sisemore, as trustee, and  
 KLAMATH FIRST FEDERAL SAVINGS AND LOAN ASSOCIATION, a corporation organized and existing under the laws of the  
 United States, as beneficiary;

## WITNESSETH:

The grantor irrevocably grants, bargains, sells and conveys to the trustee, in trust, with power of sale, the property in  
 Klamath County, Oregon, described as:

**Lots 2 and 3, Block 40, HILLSIDE ADDITION to the City  
 of Klamath Falls, according to the official plat thereof  
 on file in the office of the County Clerk of Klamath  
 County, Oregon.**

**EXCEPTING THEREFROM the Northwesterly rectangular one-  
 half of Lot 2.**

**ALSO EXCEPTING THEREFROM a 20 foot strip off the extreme  
 Southwest side conveyed for road purposes.**

which said described real property is not currently used for agricultural, timber or grazing purposes,

together with all and singular the appurtenances, tenements, hereditaments, rents, issues, profits, water rights, easements or privileges now or  
 hereafter belonging to, derived from or in anywise appertaining to the above described premises, and all plumbing, lighting, heating, venti-  
 lating, air-conditioning, refrigerating, watering and irrigation apparatus, equipment and fixtures, together with all awnings, venetian blinds, floor  
 covering in place such as wall-to-wall carpeting and linoleum, shades and built-in appliances now or hereafter installed in or used in connection  
 with the above described premises, including all interest therein which the grantor has or may hereafter acquire, for the purpose of securing  
 performance of each agreement of the grantor herein contained and the payment of the sum of **THIRTY NINE THOUSAND AND 98/100**  
 (\$39,150.00) Dollars, with interest thereon according to the terms of a promissory note of even date herewith, payable to the  
 beneficiary or order, and made by the grantor, principal and interest being payable in monthly installments of \$330.03 commencing  
 December 30th 1977

This trust deed shall further secure the payment of such additional money,  
 if any, as may be loaned hereafter by the beneficiary to the grantor or others  
 having an interest in the above described property, as may be evidenced by a  
 note or notes. If the indebtedness secured by this trust deed is evidenced by  
 more than one note, the beneficiary may credit payments received by it upon  
 any of said notes or part of any payment on one note and part on another,  
 as the beneficiary may elect.

The grantor hereby covenants to and with the trustee and the beneficiary  
 herein that the said premises and property conveyed by this trust deed are  
 free and clear of all encumbrances and that the grantor will and his heirs,  
 executors and administrators shall warrant and defend his said title thereto  
 against the claims of all persons whomsoever.

The grantor covenants and agrees to pay said note according to the terms  
 thereof and, when due, all taxes, assessments and other charges levied against  
 said property; to keep said property free from all encumbrances having pre-  
 cedence over this trust deed; to complete all buildings in course of construction  
 hereof or hereafter constructed on said premises within six months from the date  
 hereof or the date construction is hereafter commenced; to repair and restore  
 promptly and in good workmanship any building or improvement on or  
 said property which may be damaged or destroyed and pay, when due, all  
 costs incurred therefor; to allow beneficiary to inspect said property at all  
 times during construction; to replace any work or materials unsatisfactory to  
 beneficiary within fifteen days after written notice from beneficiary of such  
 fact; not to remove or destroy any building or improvement now or hereafter  
 constructed on said premises; to keep all buildings and improvements now or  
 hereafter erected upon said property in good repair and to commit or suffer  
 no waste of said premises; to keep all buildings, property and improvements  
 now or hereafter erected on said premises continuously insured against loss  
 by fire or such other hazards as the beneficiary may from time to time require,  
 in a sum not less than the original principal sum of the note or obligation  
 secured by this trust deed, in a company or companies acceptable to the bene-  
 ficiary, and to deliver the original policy of insurance in correct form and with  
 approved loss payable clause in favor of the beneficiary attached and with  
 premium paid, to the principal place of business of the beneficiary at least  
 fifteen days prior to the effective date of any such policy of insurance. If  
 said policy of insurance is not so tendered, the beneficiary may in its own  
 discretion obtain insurance for the benefit of the beneficiary, which insurance  
 shall be non-cancelable by the grantor during the full term of the policy thus  
 obtained.

That for the purpose of providing regularly for the prompt payment of all taxes,  
 assessments, and governmental charges levied or assessed against the above described  
 property and insurance premium while the indebtedness secured hereby is in excess of 80%  
 of the lesser of the original purchase price paid by the grantor at the time the loan was  
 made or the beneficiary's original appraisal value of the property at the time the loan  
 was made, grantor will pay to the beneficiary in addition to the monthly payments of  
 principal and interest payable under the terms of the note or obligation secured hereby  
 on the date installments on principal and interest are payable an amount equal to 1/12  
 of the taxes, assessments, and other charges due and payable with respect to said property  
 within each succeeding 12 months and also 1/36 of the insurance premium payable with  
 respect to said property within each succeeding three years while this Trust Deed is in  
 effect as estimated and directed by the beneficiary. Beneficiary shall pay to the grantor  
 interest on said amounts at a rate not less than the highest rate authorized to be paid  
 by banks on their open passbook accounts minus 3/4 of 1%. If such rate is less than  
 4%, the rate of interest paid shall be 4%. Interest shall be computed on the average  
 monthly balance in the account and shall be paid quarterly to the grantor by crediting  
 to the escrow account the amount of the interest due.

While the grantor is to pay any and all taxes, assessments and other charges levied  
 or assessed against said property, or any part thereof, before the same begin to bear  
 interest and also to pay premiums on all insurance policies upon said property, such pay-  
 ments are to be made through the beneficiary, as aforesaid. The grantor hereby authorizes  
 the beneficiary to pay any and all taxes, assessments and other charges levied or imposed  
 against said property in the amounts as shown by the statements thereof furnished by the  
 collector of such taxes, assessments or other charges, and to pay the insurance premiums  
 in the amounts shown on the statements submitted by the insurance carriers or their rep-  
 resentatives and to withdraw the sums which may be required from the reserve account,  
 if any, established for that purpose. The grantor agrees in no event to hold the beneficiary  
 responsible for failure to have any insurance written or for any loss or damage growing  
 out of a defect in any insurance policy, and the beneficiary hereby is authorized, in the  
 event of any loss, to compromise and settle with any insurance company and to apply any  
 such insurance receipts upon the obligations secured by this trust deed, in computing the  
 amount of the indebtedness for payment and satisfaction in full or upon sale or other

acquisition of the property by the beneficiary after default, any balance remaining in the  
 reserve account shall be credited to the indebtedness. If any authorized reserve account  
 for taxes, assessments, insurance premiums and other charges is not sufficient at any  
 time for the payment of such charges as they become due, the grantor shall pay the  
 deficit to the beneficiary upon demand, and if not paid within ten days after such demand,  
 the beneficiary may at its option add the amount of such deficit to the principal of the  
 obligation secured hereby.

Should the grantor fail to keep any of the foregoing covenants, then the  
 beneficiary may at its option carry out the same, and all its expenditures there-  
 for shall draw interest at the rate specified in the note, shall be repayable by  
 the grantor on demand and shall be secured by the lien of this trust deed. In  
 this connection, the beneficiary shall have the right in its discretion to complete  
 any improvements made on said premises and also to make such repairs to said  
 property as in its sole discretion it may deem necessary or advisable.

The grantor further agrees to comply with all laws, ordinances, regulations,  
 covenants, conditions and restrictions affecting said property; 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;  
 to appear in and defend any action or proceeding purporting to affect the secur-  
 ity hereof or the rights or powers of the beneficiary or trustee; and to pay all  
 costs and expenses, including cost of evidence of title and attorney's fees in a  
 reasonable sum to be fixed by the court, in any such action or proceeding in  
 which the beneficiary or trustee may appear and in any suit brought by bene-  
 ficiary to foreclose this deed, and all said sums shall be secured by this trust  
 deed.

The beneficiary will furnish to the grantor on written request therefor an  
 annual statement of account but shall not be obligated or required to furnish  
 any further statements of account.

## It is mutually agreed that:

1. In the event that any portion or all of said property shall be taken  
 under the right of eminent domain or condemnation, the beneficiary shall have  
 the right to commence, prosecute in its own name, appear in or defend any ac-  
 tion or proceedings, or to make any compromise or settlement in connection with  
 such taking and, if it so elects, to require that all or any portion of the money's  
 payable as compensation for such taking, which are in excess of the amount re-  
 quired to pay all reasonable costs, expenses and attorney's fees necessarily paid  
 or incurred by the grantor in such proceedings, shall be paid to the beneficiary  
 and applied to its first use upon any reasonable costs and expenses and attorney's  
 fees necessarily paid or incurred by the beneficiary in such proceedings, and the  
 balance applied upon the indebtedness secured hereby; and the grantor agrees,  
 at its own expense, to take such actions and execute such instruments as shall  
 be necessary in obtaining such compensation, promptly upon the beneficiary's  
 request.

2. At any time and from time to time upon written request of the bene-  
 ficiary, payment of its fees and presentation of this deed and the note for en-  
 forcement (in case of full reconveyance, for cancellation), without affecting the  
 liability of any person for the payment of the indebtedness, the trustee may (a)  
 consent to the making of any map or plat of said property; (b) join in granting  
 any easement or creating and restriction thereon; (c) join in any subordination  
 or other agreement affecting this deed or the lien or charge hereof; (d) reconvey,  
 without warranty, all or any part of the property. The grantee in any reconvey-  
 ance 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. Trustee's fees for any of the services in this paragraph  
 shall be \$5.00.

3. As additional security, grantor hereby assigns to beneficiary during the  
 continuance of these trusts all rents, issues, royalties and profits of the prop-  
 erty affected by this deed and of any personal property located thereon. Until  
 grantor shall default in the payment of any indebtedness secured hereby or in  
 the performance of any agreement hereunder, grantor shall have the right to col-  
 lect all such rents, issues, royalties and profits earned prior to default as they  
 become due and payable. Upon any default by grantor hereunder, the bene-  
 ficiary may at any time without notice, either in person, by agent or by re-  
 ceiver 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  
 said property, or any part thereof, in its own name sue for 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 reason-  
 able attorney's fees, upon any indebtedness secured hereby, and in such order  
 as the beneficiary may determine.

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4. The entering upon and taking possession of said 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 of 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.

5. The grantor shall notify beneficiary in writing of any sale or contract for sale of the above described property and furnish beneficiary on a form supplied it with such personal information concerning the purchaser as would ordinarily be required of a new loan applicant and shall pay beneficiary a service charge.

6. Time is of the essence of this instrument and upon default by the grantor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, the beneficiary may declare all sums secured hereby immediately due and payable by delivery to the trustee of written notice of default and election to sell the trust property, which notice trustee shall cause to be duly filed for record. Upon delivery of said notice of default and election to sell, the beneficiary shall deposit with the trustee this trust deed and all promissory notes and documents evidencing expenditures secured hereby, whereupon the trustee shall fix the time and place of sale and give notice thereof as then required by law.

7. After default and any time prior to five days before the date set by the Trustee for the Trustee's sale, the grantor or other person so privileged may pay the entire amount then due under this trust deed and the obligations secured thereby (including costs and expenses actually incurred in enforcing the terms of the obligation and trustee's and attorney's fees not exceeding \$50.00 each) other than such portion of the principal as would not then be due had no default occurred and thereby cure the default.

8. After the lapse of such time as may then be required by law following the recordation of said notice of default and giving of said notice of sale, the trustee shall sell said property at the time and place fixed by him in said notice of sale, either as a whole or in separate parcels, and in such order as he may determine, at public auction to the highest bidder for cash, in lawful money of the United States, payable at the time of sale. Trustee may postpone sale of all or any portion of said property by public announcement at such time and place of sale and from time to time thereafter may postpone the sale by public announcement at the time fixed by the preceding postponement. The trustee shall deliver to the purchaser his deed in form as required by law, conveying the property so sold, but without any covenant or warranty, express or implied. The proceeds in the deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, excluding the trustee but including the grantor and the beneficiary, may purchase at the sale.

9. When the Trustee sells pursuant to the powers provided herein, the trustee shall apply the proceeds of the trustee's sale as follows: (1) To the expenses of the sale including the compensation of the trustee, and a reasonable charge by the attorney; (2) To the obligation secured by the trust deed; (3) To all persons having recorded liens subsequent to the interests of the trustee in the trust deed as their interests appear in the order of their priority; (4) The surplus, if any, to the grantor of the trust deed or to his successor in interest entitled to such surplus.

10. For any reason permitted by law, the 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 named or appointed hereunder. Each such appointment and substitution shall be made by written instrument executed by the beneficiary, containing reference to this trust deed and its place of record, which, when recorded in the office of the county clerk or recorder of the county or counties in which the property is situated, shall be conclusive proof of proper appointment of the successor trustee.

11. Trustee accepts this trust when this deed, duly executed and acknowledged is made a public record, as provided by law. The 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 the grantor, beneficiary or trustee shall be a party unless such action or proceeding is brought by the trustee.

12. 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 pledgee, 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/or neuter, and the singular number includes the plural.

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

*Thomas A. Whittemore* (SEAL)  
THOMAS A. WHITTEMORE

STATE OF OREGON

County of Klamath ss

THIS IS TO CERTIFY that on this 18<sup>th</sup> day of November, 19 77, before me, the undersigned, a Notary Public in and for said county and state, personally appeared the within named THOMAS A. WHITTEMORE

to me personally known to be the identical individual X named in and who executed the foregoing instrument and acknowledged to me that he executed the same freely and voluntarily for the uses and purposes therein expressed.

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

(SEAL)

STATE OF OREGON

Notary Public for Oregon

My commission expires: 3/30/81

Loan No. \_\_\_\_\_

## TRUST DEED

TO Grantor  
Klamath First Federal Savings  
AND LOAN ASSOCIATION

Beneficiary.

After Recording Return To:

Klamath First Federal Savings  
AND LOAN ASSOCIATION

(DON'T USE THIS  
SPACE; RESERVED  
FOR RECORDING  
LABEL IN COUNTIES  
WHERE  
USED.)

STATE OF OREGON

County of Klamath } ss.

I certify that the within instrument was received for record on the 21st day of November, 19 77, at 1:19 o'clock P.M., and recorded in book M77 on page 22638 Record of Mortgages of said County.

Witness my hand and seal of County affixed.

Wm. D. Milne

County Clerk

By *Harold D. Magid* Deputy

Fee \$6.00

## REQUEST FOR FULL RECONVEYANCE

To be used only when obligations have been paid.

TO: William Sisemore, \_\_\_\_\_, 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.

Klamath First Federal Savings &amp; Loan Association, Beneficiary

DATED: \_\_\_\_\_

19 \_\_\_\_\_

by \_\_\_\_\_