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38-14659-77 47239

**TRUST DEED**

Vol. 178 Fc 8641

THIS TRUST DEED, made this 28th day of April, 1978, between ROBERT S. BRAY and GARY G. SCHMITT, as Grantor, Mountain Title Company, as Trustee, and ROSE ROCK MOUSSEAU, formerly ROSE M. ROCK, as Beneficiary.

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

Lot 6, Block 18, FAIRVIEW ADDITION NO. 2, IN THE  
CITY OF KLAMATH FALLS, in the County of Klamath,  
State of Oregon, EXCEPT the Westerly 42 feet thereof

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.

**FOR THE PURPOSE OF SECURING PERFORMANCE** of each agreement of grantor herein contained and payment of the sum of **Five Thousand Three Hundred Thirty Eight & 07/100ths** Dollars, with interest thereon according to the terms of a promissory note of even date herewith.

The date of maturity of the debt secured by this instrument is the date, stated above, on which the final installment of said note becomes due and payable.

The above described real property is not currently used for agricultural, timber or grazing purposes.

*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*

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.

3. 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 by filing officers or searching agencies as may be deemed desirable by the beneficiary.

4. To provide and continuously maintain insurance on the buildings now and 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 companies acceptable to the beneficiary, in the amount of \$100,000.00, written in policies of insurance shall be delivered to the beneficiary, as soon as insured; and the policies shall fail for any reason to procure any such insurance or termination of any policy, the grantor or now or hereafter placed on said buildings, the beneficiary may procure the same at grantor's expense. The amount of any indebtedness secured hereby and in such cases shall be applied by beneficiary, or assignee, or at option of beneficiary the entire amount so collected, less any part thereof may be released to grantor. Such application or release shall not cure or waive any default, or notice of default hereunder or invalidate any act done pursuant to such notice.

5. To keep said premises free from construction liens and to pay all taxes, assessments and other charges that may be levied or assessed upon or against said property before any part of such taxes, assessments and other charges become past due or delinquent and promptly deliver receipts therefor to beneficiary, should the grantor fail to make payment of any taxes, assessments, insurance, or any other charges payable by grantor, either by direct payment or by providing the 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 paragraph 4 of this trust deed, shall be added to and become a part of the debt secured by this trust deed, without waiver of any rights arising from breach of any of the covenants hereinbefore provided, and for such payments, with interest as aforesaid, the promisor hereinbefore provided, as well as the grantor, shall be bound to the same extent that they are bound for the payment of the obligation herein described, and all such payments shall be immediately due and payable without notice, and the nonpayment thereof shall be the option of the beneficiary, render all sums secured by this trust deed immediately due and payable and constitute a breach of this trust deed.

6. 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.

tees actually incurred, and in defend any action or proceeding purporting to affect the security rights or powers of beneficiary and trustee's and attorney's action or proceeding in which the beneficiary or trustee, and in any suit, action or proceeding for the foreclosure of this deed, to pay all costs and expenses of attorney's fees and title and the beneficiary's or trustee's attorney's fees; the amount of attorney's fees shall be as set forth in paragraph 7 in all cases shall be fixed by the trial court and in the event of a judgment or order of judgment or order of the trial court, plaintiff further agrees to pay each sum of attorney's fees on such judgment or order of judgment or order of the trial court.

*It is mutually agreed that*

under the right of eminent domain, or for the location of all of said property shall be the right, if it so elects, to require that all or any portion of the beneficiary shall have the compensation for such taking, which are in excess of the amount of the award, be paid or incurred by grantor in such expenses and attorney's fees necessarily paid or applied by it just upon any reasonable costs and attorney's fees, and 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 against its own expense, to take such actions and execute such instruments, as shall be necessary in obtaining such compensation, promptly upon beneficiary's request.

9. At any time and from time to time upon written request of beneficiary, payment of its fees and presentation of this deed and the note by endorsement (in case of full reconveyance, for cancellation), without affecting the liability of any person for the payment of the indebtedness, trustee may

(a) consent to the making of any map or plat of said property; (b) join in granting any easement or creating any restriction thereon; (c) join in any subordination or other agreement affecting this deed or the lien or charge thereof; (d) reconvey without warranty, all or any part of the property. The grantee in any reconveyance shall be described as the "person or persons legally entitled thereto," and the recitals thereof in any matters or facts shall be conclusive proof of the truthfulness thereof. Trustee's fees for any of the services mentioned in this paragraph shall be not less than \$5.

time without upon any default by Grantor hereunder, beneficiary may at any time, by or through an attorney in person, by agent or by a receiver to be appointed by a court and without notice to Grantor, cause to be sold or otherwise disposed of the indebtedness hereby secured, enter upon the adequacy of any security for or any part thereof, in its own name sue or otherwise for possession of said property and the proceeds of the sale thereof, and collect the same, with interest, costs and profits, including those past due and unpaid, and apply the same, in full or in part, to the satisfaction of the indebtedness hereby secured, and pay the balance, if any, less costs of operation and collection, including reasonable attorney's fees upon any indebtedness secured hereby, and in such order as beneficiary may determine.

11. The entering upon and taking possession of said property, the collection of such rents, issues and profits, or the proceeds of life and other insurance policies or compensation or awards for any taking or damage of the property, and the application or 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.

12. Upon default by grantor in payment of any indebtedness secured hereby or in his performance of any agreement hereunder, the beneficiary may declare all sums secured hereby immediately due and payable. In such an event and if the above described real property is currently used for agricultural, timber or grazing purposes, the beneficiary may proceed to foreclose this trust deed in equity, as a mortgage in the manner provided by law for nonjudicial foreclosures. However if said real property is currently used by law for nonjudicial foreclosures, the beneficiary may proceed to foreclose this trust deed in equity as a mortgage or direct the trustee to foreclose this trust deed by advertisement and sale. In the latter event the beneficiary or the trustee shall have no cause of action against the beneficiary or the trustee for failure to give the said described real property written notice of default and his election to sell the property, or to satisfy the obligations secured hereby, when required by law and proceed to foreclose this trust deed in the manner provided in ORS 86.740 to 86.795.

[illegible]

place designated in the notice. The trustee may sell said property either in one parcel or in separate parcels and all the parcel or parcels at auction to the highest bidder for cash, payable at all the time. Trustee shall deliver to the purchaser its deed in form as required by law. Trustee may sell property sold, but without any covenant or warranty, express or implied. The recital in deed of any matters of fact shall be conclusive proof of the truthfulness thereof. No person, excluding the trustee, but including the grantor and beneficiary, may, without the written consent of the trustee,

15. When trustor sells pursuant to the powers provided herein, trustee shall apply the proceeds of sale to payment of: (1) the expenses of sale; (2) attorney's fees; (3) the compensation of the trustee; and a reasonable charge by trustees having received the proceeds subsequent to the interest of the trust in the trust surplus if any, to the grantor or to his successor in interest entitled to such surplus.

10. If any person benefited by any beneficiary may have cause to contest a transfer appointed hereunder, the trustee named herein or to any successor to the successor trustee, the latter shall be vested with power to defend the transfer and the beneficiaries named or to be named hereunder. Each such appointment upon any trustee herein named or appointed instrument executed by beneficiary, containing reference to this deed, shall be conclusive proof of record, which, when recorded in the office of the County Clerk of Placer County, California, shall be conclusive proof of the fact that the deed shall be conclusive proof of the fact that the property is situated in Placer County, California.

Trustee accepts this trust when that deed duly executed and acknowledged is made a public record as provided by law. Trustee is not bound or obligated in any way by any party hereto or proceeding rule under any other deed or trust 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.

NOTE: The Trust Deed Act provides that the trustee hereunder must be either an attorney who is or was a member of the Oregon State Bar, or a duly licensed insurance company authorized to do business under the laws of Oregon or the United States, or the United States or any other foreign country.

The grantor covenants and agrees to and with the beneficiary and those claiming under him, that he is lawfully seized in fee simple of said described real property and has a valid, unencumbered title thereto

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

Grantors herein have the express consent of the Beneficiary to remove the existing drive-way to the basement of the premises above-described.

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 (even if grantor 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, personal representatives, successors and assigns. The term beneficiary shall mean the holder and owner, including pledgee, of the contract 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 and the beneficiary is a creditor or such word is defined in the Truth-in-Lending Act and Regulation Z, the beneficiary MUST comply with the Act and Regulation by making required disclosures; for this purpose, if this instrument is to be a FIRST lien to finance the purchase of a dwelling, use Stevens-Ness Form No. 1305 or equivalent; if this instrument is NOT to be a first lien, use Stevens-Ness Form No. 1306, or equivalent. If compliance with the Act not required, disregard this notice.

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

(ORS 93.490)

STATE OF OREGON,

County of Klamath } ss.

April 28, 19 78.

Personally appeared the above named

ROBERT S. BRAY and GARY G. SCHMITT,

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

Before me:

(OFFICIAL SEAL)

Marlene J. Addington  
Notary Public for Oregon

My commission expires: 3-22-81

STATE OF OREGON, County of

, 19

Personally appeared

and

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)

# REQUEST FOR FULL RECONVEYANCE

To be used only when obligations have been paid.

TO: MOUNTAIN TITLE 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:

, 19

Beneficiary

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.

## TRUST DEED

(FORM No. 881-1)

STEVENS-NESS LAW PUB. CO., PORTLAND, ORE.

Grantor

SPACE RESERVED  
FOR  
RECORDER'S USE

Beneficiary

AFTER RECORDING RETURN TO

T/A-Branch  
Ath: Marlene

STATE OF OREGON

County of Klamath } ss.

I certify that the within instrument was received for record on the 1st day of May, 19 78, at 3:32 o'clock P.M., and recorded in book M78 on page 8641 or as file/reel number 47239

Record of Mortgages of said County.

Witness my hand and seal of County affixed.

Wm. D. Milne  
County Clerk

Title

By Richard J. [Signature] Deputy  
Fee \$6.00