

48630

TRUST DEED

Vol. 1778 Page 10639

THIS TRUST DEED, made this 28 day of March, 1970, between

OAKLEY E. Mallette, a single man, as Grantor,
TRANSAMERICA TITLE INSURANCE COMPANY, a CALIFORNIA CORPORATION as Trustee, and WELLS FARGO REALTY
SERVICES, INC., a CALIFORNIA CORPORATION, TRUSTEE as Beneficiary.

WITNESSETH:

Grantor irrevocably grants, bargains, sells and conveys to trustee in trust, with power of sale, the property in KLAMATH COUNTY, OREGON, described as:

Lot 42 in Block 191 of Tract 1113-Oregon Shores-Unit 2 as shown on the map filed on December 9, 1977 in Volume 21, Page 20 of Maps in the office of the County Recorder of said County.

together with all and singular the tenements, hereditaments and appurtenances and all other rights therein to 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 Seven Hundred Dollars, with interest thereon according to the terms of a promissory note of even date herewith, payable to April 27 1989.

The date of maturity of the debt secured by this instrument is not applicable, stated above, on which the final installment of said note becomes due and payable. In the event the within described property, or any part thereof, or any interest therein is sold, conveyed, assigned or alienated by the grantor without first having obtained the written consent or approval of the beneficiary, then, at the beneficiary's option, all obligations secured by this instrument, irrespective of the maturity date expressed therein, or herein, shall become immediately 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 and workmanlike manner and 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.

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 advisable by the beneficiary.

4. To provide and continuously maintain insurance on the buildings 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 \$_____ written in companies acceptable to the beneficiary with loss payable to the latter; all policies of insurance shall be delivered to the beneficiary upon payment of the premium thereon.

beneficiary with loss payable to insured, the grantor shall fail for any reason to
to the beneficiary.
to the beneficiary and to deliver said policies to the beneficiary at least
fifteen days prior to the expiration of any policy of insurance now or hereafter
placed on said buildings, the beneficiary may produce and deliver to the grantor
The amount collected under such insurance policy may be applied to the payment
the amount of such insurance policy 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
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 premises before any part of such taxes, assessments and other charges become due, the grantor shall, before any part of such taxes, assessments and other charges become due, or delinquent and promptly deliver receipts therefor to beneficiary; should the grantor fail to make payment of any taxes, assessments, or other charges, the grantor shall make payments payable by grantor, or should the grantor fail to provide beneficiary with such receipts, the grantor shall make such payment, beneficiary may, at the option of the beneficiary, make such 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 this trust deed shall be added to the principal of the note secured by this trust deed, without the benefit of any rights arising from breach of any of the covenants hereof as to the making of payments, with interest as aforesaid, the property shall be bound for the payment of the obligation herein described, and the payments shall be immediately due and payable without notice, and the obligation of payment shall, at the option of the beneficiary, be secured by this trust deed, and in the event of 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 this obligation.

7. To appear in and defend any action or proceeding purporting to affect the title to, or possession of, any real or personal property of the said [redacted] or of any person claiming to be a beneficiary or trustee, and in any suit, action

security rights of the powers of beneficiary or trustee, and in any suit, action or proceeding in which the beneficiary or trustee may appear, including any suit for the enforcement of this deed, to pay all costs and expenses, including evidence of title and the beneficiary's or trustee's attorney's fees provided, however, in case the suit is between the grantor and the beneficiary or the trustee then the prevailing party shall be entitled to the attorney's fees herein described; the amount of attorney's fee mentioned in this paragraph 7 in all cases shall be fixed by the trial court or by an appellate court if an appeal is taken.

It is mutually agreed that:

It is mutually agreed that:

7. In the event that any portion of all of said property shall be taken under a right of eminent domain or condemnation, beneficiary shall have the right, if it is right, to require that all or a portion of the money payable as compensation for such taking, with attorney's fees of the amount required to pay all reasonable expenses and attorney's fees necessarily paid or incurred by grantor in such proceedings, shall be paid to beneficiary and applied by it first upon the grantor's expenses and attorney's fees, both in the proceedings, and the balance necessarily paid or incurred by beneficiary, and grantor agrees, if it is so applied upon the indebtedness so incurred, to execute such instrument as shall be necessary to take title and 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 for endorsement in case of full reconveyance, for cancellation, without affecting the liability of a 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

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 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 mentioned in this paragraph shall be not less than \$5 at any time with

10. Upon any default by grantor hereunder, beneficiary may at any time without notice, either in person, by agent or by a receiver to be appointed by a court, and due regard to the adequacy of any security for the indebtedness hereby secured, enter upon and possession of said property or any part thereof, in its own name, and may 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 reasonable attorney's fees subject to paragraph 7 hereof upon any indebtedness secured hereby, 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 fire and other insurance policies or compensation or awards for any taking or damage of the property, and the payment or release thereof as aforesaid, shall not cure or waive any default or

application or release thereof as aforesaid, shall not be deemed a breach of the trust pursuant to such notice. Notice of default hereunder or violation of any of any indebtedness secured hereby or of any other event of default hereunder, shall be deemed to have been duly given to the beneficiary in his performance of any agreement hereunder, the beneficiary may declare all sums secured hereby immediately due and payable. In such an event, the beneficiary may, without prejudice to the foregoing, sell, lease, convey, or otherwise dispose of the property described real property is currently encumbered hereby for the purpose of raising proceeds to satisfy the obligations secured hereby for the purpose of raising proceeds, the beneficiary may, without prejudice to the foregoing, sell, lease, convey, or otherwise dispose of the property described real property is currently encumbered hereby for the purpose of raising proceeds to satisfy the obligations secured hereby. However, if said real property is not so currently used, the beneficiary at his election may proceed to foreclose pursuant to the terms of the deed of trust, or if the beneficiary is not the trustee, the beneficiary may cause the trustee to foreclose pursuant to the terms of the deed of trust in equity as a mortgage or direct the trustee to foreclose pursuant to the terms of the deed of trust in equity as a mortgage or direct the trustee to foreclose pursuant to the terms of the deed of trust in equity as a mortgage. The beneficiary or the trustee shall execute and cause to be recorded his written notice of default and his election to sell the said property or to foreclose pursuant to the terms of the deed of trust. The beneficiary or the trustee shall fix the time and place of sale, give notice thereof as is then required by law, and proceed to foreclose this trust deed in the manner provided in ORS 86.430.

13. Should the beneficiary elect to foreclose by advertisement and sale then made after at any time prior to five days before the date set by the trustee for the installment sale, the grantor or other person so provided by ORS No. 701, may pay to the beneficiary or his successors in interest, respectively, the entire amount then due under the terms of the trust deed and the obligation secured thereby (including all costs and expenses actually incurred in enforcing the terms of the "Mortgage" and "Trust") and attorney's fees not exceeding \$500, which sum shall constitute payment of the principal as would then have been due had no default occurred, and thereby cure the default, if it has occurred; and no proceedings shall be commenced by the trustee.

14. Otherwise, the sale shall be held on the date and at the time and place designated in the notice of sale. The trustee may sell said property either in one lump sum or in separate parcels and shall sell the parcel or parcels at auction to the highest bidder for cash, payable at the time of sale. Trustee shall deliver to the purchaser its deed in form as required by law conveying the property sold, with or without any covenant or warranty, expressed or implied, recitals in the deed of any matters of fact shall be supported by convincing proof of the truthfulness thereof. Any person excluding the trustee, but including the grantor and beneficiary, may purchase at the sale.

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

his executor or personal trustee shall be a lawfully married person at the time of his appointment. In the case of a woman, she shall be a lawfully married person at the time of her appointment. In the case of a corporation, it shall be a corporation duly organized and qualified to do business in the State of New York. Upon the appointment of a successor trustee, the latter shall be appointed in and with the same manner and character as the first trustee, and the same shall be true of each and every subsequent appointment. The appointment of a successor trustee shall be made by written instrument executed by the first trustee, continuing in force until the death of the first trustee, and the instrument shall be filed for record in the office of the County Clerk or Recorder of the County in which the real property of which the property is situated, shall be conclusive proof of proper appointment of the successor trustee.

17. Trustee accepts this trust when this deed, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify a party hereto of pending sale under any other deed of trust or of any action proceeding in which grantor, beneficiary or trustee shall be a party unless such action or proceeding is brought by trustee.

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

NOTE: The Trust Deed Act provides that the trustee hereunder must be either an attorney, who is an active member of the Oregon State Bar, a bank, trust company or savings and loan association authorized to do business under the laws of Oregon or the United States, a title insurance company, authorized to issue title to real property in Oregon, or a title agent, agent or branches, or the United States or any agency thereof.

7213-00724

02201

10640

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 (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. If compliance with the Act not required, disregard this notice.

Gary Earl Malette
Gary Earl Malette

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

STATE OF _____
County of _____ } ss.

(ORS 93.470)

STATE OF _____, County of _____ } ss.

Personally appeared _____

Witnessed by *Michael R. Green*
3-28-78

STATE OF CALIFORNIA,

COUNTY OF Los Angeles } ss.

On 12 April, 1978 before me, the undersigned, a Notary Public in and for said County and State, personally appeared Michael R. Green, known to me to be the person whose name is subscribed to the within instrument as a witness thereto, who being by me duly sworn, deposed and said: That he resides at Los Angeles; that

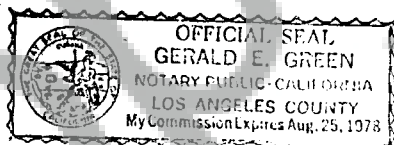
he was present and saw GARY EARL MALETTE

personally known to him to be the person described in, and whose name is subscribed to the within and annexed instrument, execute the same; and that affiant subscribed his name thereto as a witness to said execution.

Signature *Gerald E. Green*



FOR NOTARY SEAL OR STAMP



DATED: _____, 19____

Beneficiary

TRUST DEED

G. E. Malette

Grantor

Wells Fargo Realty Services

Beneficiary

AFTER RECORDING RETURN TO
Wells Fargo Realty Services
572 East Green Street
Pasadena, California
91101

ATTN: K. Stone

SPACE RESERVED
FOR
RECORDER'S USE

STATE OF OREGON

County of Klamath } ss.

I certify that the within instrument was received for record on the 19th day of May, 19 78, at 3:18 o'clock P.M., and recorded in book M78 on page 10639 or as file/reel number 48630.
Record of Mortgages of said County.
Witness my hand and seal of County affixed.

Wm. D. Milne

County Clerk Title

By *Thomas H. Kelich* Deputy