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51488

## TRUST DEED

THIS TRUST DEED, made this 5th day of July, 1978, between  
 GRIGORY A. SMITH and REBECCA FRANCIS SMITH, as Grantor,  
 Klamath County Title Company, as Trustee,  
 and WILLIAM E. SHUMWAY, 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 9 in Block 1 of Tract No. 1114, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

# FAST DEED

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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.

tion with said real estate.

**FOR THE PURPOSE OF SECURING PERFORMANCE** of each agreement of grantor herein contained and payment of the sum of Eight thousand five hundred and 00/100----- 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 October 3, 1986.  
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. In the event the within described property, or any part thereof, or any interest therein is sold, agreed to be 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 dates 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 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.

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, and continuously maintain insurance on the buildings

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

[illegible]

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 premiums, liens or other charges payable by grantor, either in whole or in part, or by providing beneficiary with funds with which to

[illegible]

all sums secured by this trust

render all sums secured by this trust due immediately due and payable and constitute a breach of this trust deed. ~~SECTION 6.~~ ~~SECTION 6.~~ To pay all costs, fees and expenses of this trust including the costs 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 security rights or 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 foreclosure of this deed, to pay all costs and expenses, including evidence of title and title insurance, and trustee's or attorney's fees; the amount of any such costs mentioned in this paragraph 7 in all cases shall be borne by the trial court; and in the event of an appeal from any judgment or decree of the trial court, greater further agree to pay such sum as the appellate court shall adjudge reasonable as the beneficiary's or trustee's attorney's fees on such appeal.

8. In the event that any portion or all of said property shall be taken 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 reasonable costs, expenses and attorney's fees necessarily paid or incurred by grantor in such proceedings, shall be paid to beneficiary or attorneys, fees

(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 coordination or other agreement affecting this deed or the lien or charge thereon; (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 no less than the prevailing rates for such services in the community in which the property is located.

10. Notwithstanding 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 without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of the real, personal or any part thereof, in its own name, to receive and collect the rents, issues and profits of the premises, and to apply the same to the payment of the less costs and expenses 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 fire 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 for in the mortgage foreclosure laws of the State of Oregon. If the above described real property is currently used, the beneficiary at his option may elect 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 execute and cause to be recorded his written notice of default and his election to sell the said described real property to satisfy the obligations secured hereby, within the time and in the manner provided by law, and the trustee shall, upon the trustee's election to sell the said described real property to satisfy the obligations secured hereby, within the time and in the manner provided by law and proceed to foreclose this trust deed in the manner provided in ORS 86.740 to 86.795.

13. Should the beneficiary elect to foreclose by advertisement and sale, then after default at any time prior to five days before the date set by the trustee for the trustee's sale, the grantor or other persons or parties, by ORS 86.760, may pay to the trustee or the trustee's successors in interest, respectively, the principal of the debt, together with all interest thereon, and all costs and expenses 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 principal of the debt as may be due had no default occurred, and the debt shall be dismissed 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 shall sell said property either in one parcel or in several 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 so sold, but without any covenant or warranty of any kind. The sale of the property shall be conclusively presumed to be for cash, and the receipt of the proceeds of the sale by 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 atorney; (2) to the obligations secured by the trust deed; (3) to all persons having lesser interests subsequent to the interest of the trustee in the trust deed; and (4) to the grantor or to his successor in interest entitled to such surplus, if any, to the grantor or to his successor in interest entitled to such surplus.

116. For any reason permitted by law beneficiary may from time to time, during his lifetime, appoint a successor 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 the powers and duties of the trustee. Each such appointment and appointment of a successor trustee shall be made by a written instrument, which instrument executed by beneficiary, containing reference to this trust deed and its place of record, which, when recorded, shall constitute a sufficient and 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 any party hereto of pending sale under any other deed of trust or of any action or proceeding in which grantor, beneficiary or trust 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 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 insure title to real property of this state, its subsidiaries, affiliates, agents or branches, or the United States or any agency thereof.

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.

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, delete the word "grantor" and use the form of acknowledgment opposite.) (ORS 93.490)

STATE OF OREGON,

County of Klamath  
July 5, 1978

Personally appeared the above named

Gregory A. Smith and  
Rebecca Francis Smith

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

(OFFICIAL SEAL)

Before me,

Notary Public for Oregon

My commission expires: 10/16/79

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)

TO:

The undersigned is the legal owner and trust deed have been fully paid and satisfied said trust deed or pursuant to statute, to herewith together with said trust deed) and estate now held by you under the same. Mat  
DATED:

Do not lose or destroy this Trust Deed OR THE N

## TRUST DEED

(FORM No. 881)

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

Gregory A. Smith

Rebecca Francis Smith

Grantor

William E. Shumway

Beneficiary

AFTER RECORDING RETURN TO THE

Klamath Co. Deed  
Said Trust Deed was filed  
in the County of Oregon  
on 7/5/78

12

att: - dana 7/88

STATE OF OREGON

County of Klamath ss.

I certify that the within instrument was received for record on the 11th day of July, 1978, at 3:38 o'clock P.M., and recorded in book M78 on page 14875 or as file/reel number 51488, Record of Mortgages of said County. Witness my hand and seal of County affixed.

Wm. D. Milhe

County Clerk

By Bernice A. Philoch Deputy

Title

Deputy

Fee \$6.00