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TRUST DEED

Vol. 79

Page

5321

THIS TRUST DEED, made this 6<sup>th</sup>

day of February

1979

James P. Mitchell, Sarah R. Mitchell, HERRINGTON WIFE AS TENANT BY THE ENTIRETY, 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 26 in Block 44 of Tract 1184 Oregon Shores Unit 2-1st Addition as shown on the map filed on November 8,  
1978 in Volume 21, Page 29 of Maps in the office of the County Recorder of said County.

Herrington, Sarah R.

Herrington, Sarah R.

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 FIFTY EIGHT

Hundred 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 February 15<sup>th</sup> 1980

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

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 any financing statement 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 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

beneficiary with loss payable to the latter; written in companies acceptable to the

to the beneficiary as soon as insured; if the grantor shall fail for any reason to

procure any such insurance 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 procure the same at grantor's expense. The amount collected under any fire or other insurance policy may be applied by

beneficiary upon any indebtedness secured hereby and in such order as beneficiary may determine, or at option of beneficiary the entire amount so collected, or any

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 premiums, liens or

other charges payable by grantor, either by direct payment or by providing

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 this trust deed shall be added to and become a part of the debt

secured by this trust deed and, without waiver of any rights arising from breach of any of

the covenants hereof and for such payments, with interest at the same extent that

hereinbefore described, as well as the grantor, shall be bound to the same extent that

payments shall be immediately due and payable without notice, and the nonpayment

thereof shall, at 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 this obligation.

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 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

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 fees

appellate court if an appeal is taken.

It is mutually agreed that:

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 proceeds 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 and applied by it first upon any reasonable

costs and expenses and attorney's fees, both in the trial and appellate courts

necessarily paid or incurred by beneficiary in such proceedings, and the balance

applied upon the indebtedness secured hereby; and grantor agrees, at 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 for 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 may be described as the "person or persons legally entitled thereto," and the recitals therein of any matters or facts shall constitute proof of the truthfulness thereof. Trustee's fees for any of the services mentioned in this paragraph shall be not less than \$5.

10. Upon any default by grantor hereunder, beneficiary may at any time with due notice, either in person, by agent or by a receiver to be appointed by a court, and enter upon and take possession of said property or any part thereof, in its own name 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 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 described real property is currently used for agricultural, timber or grazing purposes, the manner provided by law for mortgage foreclosures. However, if said real property is not so currently used, the beneficiary at his election 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 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, whereupon the law, and proceed to foreclose this trust deed in the manner provided in ORS 86.740

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 person so privileged by ORS 86.760, may pay to under the terms of this trust deed and the obligation secured thereby (including costs and attorney's fees not exceeding \$50 each) other than such portion of the principal as would not then be due had no default occurred, and thereby cure the default, in which event all foreclosure proceedings 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 may sell said property either in one 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, express or implied. The recitals in the deed of any 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 or to his successor in interest entitled to such surplus.

16. For any reason permitted by law 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 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 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.

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 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 titled 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 insure title to real property of this state, its subsidiaries, affiliates, agents or branches, or the United States or any agency thereof.

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

5322

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.

You have the option to void your contract or agreement by notice to the seller if you did not receive a Property Report prepared pursuant to the Rules and Regulations of the Office of Interstate Land Sales Registration, U.S. Department of Housing and Urban Development, in advance of, or at the time of your signing the contract or agreement. If you received the Property Report less than 48 hours prior to signing the contract or agreement you have the right to revoke the contract or agreement by notice to the seller until midnight of the third business day following the consummation of the transaction. A business day is any calendar day except Sunday, and the following business holidays: New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving and Christmas.

\* 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.

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

STATE OF Texas } ss.  
County of Dallas }  
Feb. 9, 1979

Personally appeared the above named James P. Mitchell + Sarah R. Mitchell and acknowledged the foregoing instrument to be their voluntary act and deed.

Before me,  
(OFFICIAL SEAL) Rosalie Lucas  
Notary Public for Dallas City, Texas  
My commission expires: 11-30-81

(ORS 93.490)

STATE OF \_\_\_\_\_, County of \_\_\_\_\_, 19\_\_\_\_ ss.

Personally appeared \_\_\_\_\_ 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 \_\_\_\_\_

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 \_\_\_\_\_ (OFFICIAL SEAL)  
My commission expires: \_\_\_\_\_

#### REQUEST FOR FULL RECONVEYANCE

To be used only when obligations have been paid.

TO: \_\_\_\_\_, 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

Grantor

Beneficiary

AFTER RECORDING RETURN TO  
Wells Fargo Realty Services Inc.  
572 E. Green Street  
Pasadena, CA 91101

KAREN STARK  
Trust Services

## STATE OF OREGON

County of Klamath } ss.

I certify that the within instrument was received for record on the 8th day of March, 1979, at 11:30 o'clock A.M., and recorded in book M79 on page 5321 or as file/reel number 63685

Record of Mortgages of said County.  
Witness my hand and seal of County affixed.

Wm. D. Milne

County Clerk Title

By Renee A. Smith Deputy

Fee \$6.00