

WHEN RECORDED MAIL TO
EQUITABLE SAVINGS AND LOAN ASSOCIATION
Address 212 South Sixth Street
City Klamath Falls
State Oregon 97601

JAC 91 Vol. 79 Page 22130

SECOND DEED OF TRUST

THIS DEED OF TRUST, made this 5th day of September 1979, between Lane Schnaling Davis (GRANTOR), and Transamerica Title Co (TRUSTEE) and EQUITABLE SAVINGS AND LOAN ASSOCIATION, an Oregon corporation (BENEFICIARY). Grantor irrevocably GRANTS, BARGAINS, SELLS, AND CONVEYS TO TRUSTEE IN TRUST, WITH POWER OF SALE, the real property in the County of Klamath State of Oregon described as follows:

Lot 9, Block 44, FIRST ADDITION TO THE CITY OF KLAMATH FALLS, in the County of Klamath, State of Oregon, more particularly described as follows:

SAVING AND EXCEPTING a strip of land 2.9 feet in width, beginning at the North corner of Lot 9, Block 44, FIRST ADDITION TO THE CITY OF KLAMATH FALLS, and running thence Southeasterly along the Northeasterly line of said Lot a distance of 24.8 feet.

ALSO the following described portion of Lot 10, Block 44, FIRST ADDITION TO THE CITY OF KLAMATH FALLS; A strip of land 1 foot in width, running along the Southwesterly line of Lot 10, Block 44, FIRST ADDITION TO THE CITY OF KLAMATH FALLS, beginning at a point on said Southwesterly line 24.8 feet from the West corner of said Lot and extending along said Southwesterly line toward Jefferson Street a distance of 10 feet, and a strip of land 2.7 feet in width, beginning at a point on said Southwesterly line 34.8 feet from said West corner and extending along said Southwesterly line 75.2 feet to Jefferson Street.

Unless otherwise provided, all additional sums becoming payable to Beneficiary under this Deed of Trust shall be due immediately and shall bear interest until paid at 10% per annum of the rate provided above, whichever is higher.

Each Grantor, jointly and severally, covenants and agrees as follows:

1. Covenant of Title. Grantor is the owner in fee simple (or, if it has so advised Beneficiary in writing, the Lessee) of the trust property and entitled to possession of it. Grantor has the right to convey the trust property and it is free from encumbrances except the First Mortgage and those encumbrances previously accepted by Beneficiary in writing. Grantor will keep the Trust Property free from additional encumbrances and will warrant and forever defend it against all claims and demands.

2. Payment. Grantor will pay when due all secured sums described above and all obligations secured by the First Mortgage.

3. Representation as to Trust Property.

(a) If located in Idaho, the Trust Property either is not more than twenty acres in area or is located within an incorporated city or village.

(b) If located in Washington, the Trust Property is not used principally for agricultural or farming purposes.

(c) If located in Oregon, the Trust Property is not now used for agricultural, timber, or grazing purposes.

4. Preservation, Repair and Use of Trust Property. Grantor will keep the Trust Property in good condition and repair and will not remove, alter or demolish any structure on it without the written consent of beneficiary. Grantor will pay when due all claims for labor performed and materials furnished. Grantor will comply with all laws, ordinances, codes, orders, declarations, bylaws, rules, regulations and restrictions affecting the Trust Property and will not commit or permit waste thereof. Grantor will not use the Trust Property for any unlawful purpose.

5. Taxes.

(a) Grantor will pay when due all taxes, assessments and similar charges levied against the Trust Property.

(b) In case of loss by any hazard, casualty, or contingency insured against, or in the case of any condemnation proceedings, Grantor shall give immediate notice thereof to Beneficiary and Beneficiary may either (1) direct Grantor to collect the proceeds or award, in which case Grantor shall do so with due diligence, or (2) collect the proceeds or award itself, in which case Grantor shall cooperate as directed by Beneficiary. In either case, the proceeds or award shall be paid to Beneficiary subject to the rights of the holder of the First Mortgage, (and all insurers or condemning authorities are herewith authorized to make such payment), and Beneficiary is authorized at its option, after reimbursing from such proceeds or award any expenses incurred in the collection or handling of the funds, to hold all or part of the net proceeds or award for payment of costs of restoration or repair of the property damaged, destroyed, or condemned, and/or to apply all or part of the net proceeds as a credit on any portion of the secured debt selected by Beneficiary, whether then matured or to mature in the future, or on any deficiency judgment. Beneficiary shall not be responsible for any failure to collect any proceeds or award, regardless of the cause of such failure. The foregoing power and authority is irrevocable and coupled with an interest, and nothing done under this DLD-4 (11/76)

paragraph shall in any way waive any default or affect the security of this Deed of Trust or any liability of Grantor. Foreclosure hereof by sale or otherwise shall not affect or impair the above granted powers and authority.

6. Delinquent Payments. Grantor agrees to pay any expenses, including attorneys' fees, incurred by Beneficiary or Trustee in collecting delinquent payments or in curing any default under this Deed of Trust.

7. Protection of Beneficiary's Security, Attorneys' Fees and Expenses.

(a) Should Grantor fail to make any payment or to do any act as herein provided or as required by the First Mortgage or the note which it secures, Beneficiary without notice to Grantor and without releasing Grantor from any obligation hereof, may make or do the same in such manner and to such extent as it may deem necessary to protect the security of this Deed of Trust. Beneficiary is authorized to enter upon the Trust Property for such purposes. The Beneficiary may pay, purchase, contest or compromise any encumbrance, charge, or lien which in its judgment appears to be prior or superior to the lien of this Deed of Trust.

(b) In any suit to foreclose this Deed of Trust, or in any suit or proceedings in which it may be necessary for Beneficiary to appear in order to protect Beneficiary's security interest or in the event of any measures taken in connection with a sale or intended sale pursuant to the power granted hereunder, Grantor agrees to pay to Beneficiary all costs and expenses and a reasonable sum as attorneys' fees, including fees on appeal, and further agrees to pay the costs of title search incurred in the foregoing.

(c) Any expenses, attorneys' fees and costs incurred under Section 8 shall bear interest as provided in this Deed of Trust from the date of expenditure until paid, and, at Beneficiary's option, may be billed directly to Grantor, which billing shall be immediately due and payable, or may be added to the principal amount secured hereby.

8. Transfer of Property; Assumption; Conditions. This loan is personal to Grantor and not assignable. In making it, Beneficiary has relied on Grantor's credit, Grantor's interest in the Trust Property, and financial market conditions at the time this loan is made. If Grantor transfers or contracts to transfer title to or possession of all or part of the Trust Property, by deed, contract of sale, lease or similar agreement, Beneficiary may declare the entire balance of this loan immediately due and payable.

9. Default, Acceleration, Remedies.

(a) Time is material and of the essence hereof. If Grantor does not pay the indebtedness secured hereby or the indebtedness secured by the First Mortgage as provided or if Grantor does not comply with the terms and conditions of this Deed of Trust and the First Mortgage, or if a proceeding under any bankruptcy, receivership, or insolvency law be instituted by or against any of the Grantors, or if any of the Grantors make an assignment for the benefit of creditors, or if state laws are changed hereafter to impose what Beneficiary may deem to be a substantial tax upon Beneficiary by reason of its interest in this Deed of Trust (unless Grantor may lawfully pay such tax and does so) this Deed of Trust shall be in default. Any default under this Deed of Trust shall

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which has the address of 629 Jefferson, Klamath Falls, Oregon 97601 (Property Address);
(Street) (City) (State) (Zip Code)

together with (1) all interests, easements, rights and privileges now or hereafter belonging to or used in connection with this property and with all improvements, fixtures, furnishings, flora, appliances, and apparatus of any nature now or hereafter attached to, adapted to, located on or used in connection with this property, (2) all interests Grantor may hereafter acquire; and (3) the rents and income thereof. All of the foregoing shall constitute the Trust Property.

This Deed of Trust is secondary and subject to a prior mortgage/deed of trust on the above-described real property made by David J. Davis and Lana Schmalling Davis Transamerica Title, Trustee, with Equitable Savings & Loan as Mortgagee/Beneficiary and dated April 5, 19 79, recorded in book M-79, page 8631, or as File No. _____, Reel No. _____, Mortgage Records of the

County in which the property is located. The First Deed of Trust and the obligation secured thereby are referred hereafter as the First Mortgage. The First Mortgage secures a note for the principal sum of \$ 30,800.00 with the unpaid principal balance on the date of the execution of this Second Deed of Trust is \$ 30,734.75 and the interest thereon is paid to SAU August 1, 19 79.

This conveyance is to secure payment of all of the following: (1) Sums due under a certain promissory note of the same date, executed by Grantor in the sum of Four thousand eight hundred Dollars (\$4,850.00), payable in 120 monthly payments with the final payment due on the 14th day of September, 19 89, which is the maturity date of this Deed of Trust; (2) all further sums which may be loaned or advanced by Beneficiary to Grantor, or any of them, and (3) any additional sums which may become payable to Beneficiary under the provisions of this Deed of Trust or other security instruments securing this loan.

Unless otherwise provided, all additional sums becoming payable to Beneficiary under this Deed of Trust shall be due immediately and shall bear interest until paid at 10% per annum or the rate provided above, whichever is higher.

Each Grantor, jointly and severally, covenants and agrees as follows:

1. Covenant of Title. Grantor is the owner in fee simple (or, if it has so advised Beneficiary in writing, the Lessee) of the trust property and entitled to possession of it. Grantor has the right to convey the trust property and it is free from encumbrances except the First Mortgage and those encumbrances previously accepted by Beneficiary in writing. Grantor will keep the Trust Property free from additional encumbrances and will warrant and forever defend it against all claims and demands.

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5. Taxes.

(a) Grantor will pay when due all taxes, assessments and similar charges levied against the Trust Property.

(b) In case of loss by any hazard, casualty, or contingency insured against, or in the case of any condemnation proceedings, Grantor shall give immediate notice thereof to Beneficiary and Beneficiary may either (1) direct Grantor to collect the proceeds or award, in which case Grantor shall do so with due diligence, or (2) collect the proceeds or award itself, in which case Grantor shall cooperate as directed by Beneficiary. In either case, the proceeds or award shall be paid to Beneficiary subject to the rights of the holder of the First Mortgage, (and all insurers or condemning authorities are herewith authorized to make such payment), and Beneficiary is authorized at its option, after reimbursing from such proceeds or award any expenses incurred in the collection or handling of the funds, to hold all or part of the net proceeds or award for payment of costs of restoration or repair of the property damaged, destroyed, or condemned, and/or to apply all or part of the net proceeds as a credit on any portion of the secured debt selected by Beneficiary, whether then matured or to mature in the future, or on any deficiency judgment. Beneficiary shall not be responsible for any failure to collect any proceeds or award, regardless of the cause of such failure. The foregoing power and authority is irrevocable and coupled with an interest, and nothing done under this DLD-4 (11/76)

paragraph shall in any way waive any default or affect the security of this Deed of Trust or any liability of Grantor. Foreclosure hereof by sale or otherwise shall not affect or impair the above granted powers and authority.

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7. Protection of Beneficiary's Security, Attorneys' Fees and Expenses.

(a) Should Grantor fail to make any payment or to do any act as herein provided or as required by the First Mortgage or the note which it secures, Beneficiary without notice to Grantor and without releasing Grantor from any obligation hereof, may make or do the same in such manner and to such extent as it may deem necessary to protect the security of this Deed of Trust. Beneficiary is authorized to enter upon the Trust Property for such purposes. The Beneficiary may pay, purchase, contest or compromise any encumbrance, charge, or lien which in its judgment appears to be prior or superior to the lien of this Deed of Trust.

(b) In any suit to foreclose this Deed of Trust, or in any suit or proceedings in which it may be necessary for Beneficiary to appear in order to protect Beneficiary's security interest or in the event of any measures taken in connection with a sale or intended sale pursuant to the power granted hereunder, Grantor agrees to pay to Beneficiary all costs and expenses and a reasonable sum as attorneys' fees, including fees on appeal, and further agrees to pay the costs of title search incurred in the foregoing.

(c) Any expenses, attorneys' fees and costs incurred under Section 8 shall bear interest as provided in this Deed of Trust from the date of expenditure until paid, and, at Beneficiary's option, may be billed directly to Grantor, which billing shall be immediately due and payable, or may be added to the principal amount secured hereby.

8. Transfer of Property; Assumption; Conditions. This loan is personal to Grantor and not assignable. In making it, Beneficiary has relied on Grantor's credit, Grantor's interest in the Trust Property, and financial market conditions at the time this loan is made. If Grantor transfers or contracts to transfer title to or possession of all or part of the Trust Property, by deed, contract of sale, lease or similar agreement, Beneficiary may declare the entire balance of this loan immediately due and payable.

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constitute a default under the note which it secures and under all other security instruments securing the note. Any default under such other security instruments shall constitute a default under this Deed of Trust. Any default under this Deed of Trust shall constitute a default of the First Mortgage, if held by the Beneficiary, the note thereby secured and all other security agreements securing said note and the Beneficiary may foreclose the First Mortgage and this Deed of Trust at the same time and in the same procedure; and if a judicial foreclosure is used, in the same lawsuit. In the event of default, Beneficiary may declare all sums secured hereby immediately due and payable, and this Deed of Trust may be foreclosed and the Trust Property sold in any manner allowed by law, including without limitation, by advertisement and sale under exercise of power of sale, or as a mortgage on real property. Proceeds of a sale pursuant to exercise of the power of sale shall be applied to (1) the expenses of sale, including Trustee's and attorneys' fees, and (2) obligations secured hereby. The surplus, if any, shall be paid to persons entitled thereto by law.

(b) In the event this Deed of Trust is foreclosed as a mortgage on real property, Grantor, and each of them, consents to a personal deficiency judgment for any part of the debt hereby secured which shall not be paid by the sale of the Trust Property, unless such judgment is prohibited by law, and in

the case of foreclosure, expressly waives (1) any claim of homestead and (2) all rights to possession of the premises during the period allowed by law for redemption.

(c) Beneficiary is not obligated to take any action which this Deed of Trust provides it "may" take. Any power given Beneficiary by this Deed of Trust may also be exercised by such agents as Beneficiary may designate, including Trustee.

10. Substitute Trustee. In the event of dissolution or resignation of the Trustee, Beneficiary may substitute a trustee(s) to execute the trust hereby created, and the new trustee(s) shall succeed to all powers and duties of prior trustee(s).

11. Successors and Assigns. This Deed of Trust applies to, binds and benefits all parties hereto, their heirs, legatees, devisees, administrators, executors, successors, assigns, and pledgees. In this Deed of Trust, whenever the context so requires, the singular includes the plural.

12. Notice. Except for any notice required under applicable law to be given in another manner, any notice to Grantor provided for in this Deed of Trust shall be given by mailing such notice addressed to Grantor at the Property Address or at such other address as Grantor may designate by written notice to Beneficiary.

David J. Davis
David J. Davis

Lana Schmaling Davis
Lana Schmaling Davis

STATE OF Oregon

County of Klamath

INDIVIDUAL

Personally appeared the above named David J. Davis and Lana Schmaling Davis and acknowledged the foregoing instrument to be their voluntary act and deed. Before me:

Sgt 14, 19 79

Notary Public for Oregon
My commission expires: 8/7/80

STATE OF

County of

CORPORATE

Personally appeared

and

who, being duly sworn, each for himself and not one for the other; did say that the former is the

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
My commission expires:

SECOND DEED OF TRUST

Grantor

Beneficiary

ss.

County of Klamath

certify that the within instrument

was received for record on the 17th day

of September, 19 79

at 3:29 o'clock P.M., and recorded in

book M79 on page 22130 or as file

number 74079 Record of Mortgages

of said County.

Witness my hand and seal of County

affixed

at Wh. D. Milne

County Clerk

By Deborah J. Milne Deputy

Fee \$10.50

REQUEST FOR RECONVEYANCE

TO: Transamerica Title Insurance Company

(City, State and Date)

The undersigned is the owner and holder of all indebtedness secured by this Deed of Trust, which is, together with the secured note, delivered to you. Please convey, without warranty, to the Grantor the estate of real property described in this Deed of Trust.

EQUITABLE SAVINGS AND LOAN ASSOCIATION, Beneficiary