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TRUST DEED

Vol. 79 Page 24672

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13th day of September, 1979, between

THIS TRUST DEED, made this 13th day of September, 1979, between BARBARA E. FISH, a single woman

and Transamerica Title Insurance Co. as Grantor, PETER KOTYLUK and ROSE KOTYLUK, husband and wife, as tenants by the entirety as Trustee, and 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 9, Block 9, Tract 1053, in the Office of the County Recorder of Klamath County, State of California

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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, for the purpose of securing performance of each agreement of grantor herein contained and payment of the sum of SIXTY THREE HUNDRED SEVENTY FIVE AND NO/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 September 13, 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.

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, 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 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 \$100,000, not applicable, written in an amount acceptable to the beneficiary, with loss payable to the latter; all companies acceptable to the beneficiary shall be delivered to the beneficiary as soon as insured; policies of insurance shall be delivered to the beneficiary as soon as insured; and the grantor shall fail for any reason to procure any such insurance and to deliver said 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, such application or release shall 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 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 beneficiary with funds with which to make such payment, the grantor shall be deemed to have authorized the trustee to make such payment, with interest at the rate set forth in the note secured hereby, and the amount so paid, with interest at the rate set forth in 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 hereunder; the property covenants hereof and for such payments as the grantor shall be bound to the property herebefore described, as well as for the payment of the obligation herein same extent; that they, the grantors, shall be immediately due and payable as described, and all payments shall be made to the trustee, and the nonpayment thereof shall, at the option of the trustee, constitute a breach of this trust deed, immediately due and payable and render all sums secured by this trust deed, immediately due and payable and constitute a breach of this trust deed, 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.

6. To pay all costs, fees and expenses of this trust deed, 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.

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 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.

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, less expenses and attorney's fees necessarily paid or incurred by grantor in such proceedings, shall be paid to beneficiary, and 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, in its own expense, to take such action 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 reconveyances, 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 any grant or any easement or creating any restriction thereon; (c) join in any mortgage 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 not less than \$5.

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 without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said property or any part thereof, in its own name sue or 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 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 mortgagee, in the manner provided by law for mortgage foreclosures. However, if said real property is not so currently used, the beneficiary, at its election, may proceed to foreclose this trust deed in equity as a mortgagee 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 trustee shall fix the time and place of sale, give notice thereof as then required 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 person so entitled by ORS 86.760, may pay to the beneficiary or his successors in interest, respectively, the entire amount then due under the terms of this trust deed and the costs and expenses of the trustee and attorney's fees not exceeding \$50 (each) other than such portion of the principal as would not have 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 parcel 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 so sold, but without any covenant or warranty, express or implied. The recitals in the deed of any matters of fact shall be conclusive 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 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 the successor trustee, the latter shall be vested with all title, powers and duties conferred upon any trustee herein named and 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 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 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

*Barbara E. Fish*  
Barbara E. Fish

(Individual)

STATE OF CALIFORNIA

COUNTY OF SANTA CLARA } ss.

On September 27, 1979 before me, the undersigned, a Notary Public in and for said State, personally appeared

Barbara E. Fish

to be the person whose name is subscribed to the within instrument and acknowledged that is executed the same.

WITNESS my hand and official seal.

Signature

*Ellen M. Manning*  
ELLEN M. Manning

Name (Typed or Printed)



(This area for official notarial seal)

SAV 191 (10/75)

# REQUEST FOR FULL RECONVEYANCE

To be used only when obligations have been paid.

TO: 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.

OFFICE OF THE COUNTY RECORDER  
FOR THE BLOCK & LOT 1023 & 2

Grantor

KOTYLUK

Beneficiary

AFTER RECORDING RETURN TO

Mr. & Mrs. Peter Kotyluk

7808 La Castana Way

Buena Park, Calif. 90620

STATE OF OREGON

County of Klamath } ss.

I certify that the within instrument was received for record on the 11th day of October, 1979, at 3:33 o'clock P.M., and recorded in book M79 on page 24072 or as file/reel number 75340.  
Record of Mortgages of said County.

Witness my hand and seal of County affixed:

Wm. D. Milne

County Clerk

Bernitha Deloch Deputy

Fee \$7.00