

OC

38885

THIS TRUST DEED, made this 16th day of July, 1984, between

JIM MIELOSZYK and KARYN MIEOLSZYK, husband and wife  
as Grantor, MOUNTAIN TITLE CO., INC., as Trustee, and

MARYLEE BUTLER and CHARLES A. BUTLER, husband and wife  
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:

The Easterly 90 feet of Lot 5, Block 30, HOT SPRINGS, in the City of Klamath Falls,  
County of Klamath, State of Oregon.

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 FIVE THOUSAND SIX HUNDRED AND NO/100 (\$5,600.00) Dollars with interest thereon according to the terms of a promissory

sum of FIVE THOUSAND SIX HUNDRED AND NO/100 (\$5,600.00) 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 per terms of note \_\_\_\_\_, 19\_\_\_\_, on which the final installment of said note is due.

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:

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 thereon.

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 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 \$ full value payable to the latter; all companies acceptable to the beneficiary, with the beneficiary as soon as insured; policies of insurance shall be delivered 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 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 the beneficiary upon any indebtedness secured hereby and in such order as the 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 cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

5. To keep the mortgage and premises free from construction liens and to pay all taxes, assessments and other charges that may be levied or assessed upon or against the premises, the grantor hereby agrees to make payment of all such taxes, assessments and other charges become past due or delinquent and promptly to pay the 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 making beneficiary with funds with which to direct payment of the same, beneficiary may, at its option, make payment thereof, make such payment, together with interest at the rate set forth in the note secured hereby, and the amount so paid, with interest as 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, without waiver of any rights arising from breach of any of the covenants hereof and for such payments, with interest as aforesaid, the property herebefore described, as well as the proceeds of the payment of the obligation herein same extent that they are bound to make the payment of the obligation herein described, and all such payments shall be immediately due and payable without notice, and the grantor and its payment therefor shall, at the option of the beneficiary, render all sums secured by this trust deed immediately due and payable and shall be 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 or in enforcing this obligation and trustee's and attorney's fees actually incurred.

in connection with or in contemplation of the foreclosure of the mortgage, the 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 the evidence of title and the beneficiary's or trustee's attorney's fees; the amount of attorney's fees mentioned in this paragraph 7 in all cases shall be fixed by the trial court and in the event of an appeal from any judgment rendered by the trial court, grantor further agrees to pay such sum as the appellate court shall adjudge reasonable as the beneficiary's or trustee's attorney's fees on such appeal.

*It is mutually agreed that:*

8. In the event that any portion or all of said property shall have 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 net proceeds payable as compensation for such taking, which are attorney's fees necessarily paid or to pay all reasonable costs, expenses and out-of-pocket disbursements, shall be paid to beneficiary and incurred by grantor in any such proceedings, shall be paid to beneficiary and applied by it first to any reasonable costs and expenses and attorney's fees, both in such and appellate courts, necessarily paid or incurred by beneficiary in such proceedings, and the balance applied upon the balance of the net proceeds secured hereby; and grantor agrees, at its own expense, to take such actions and execute such instruments as shall be necessary or convenient to carry out 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

(c) consent to the making of any map or plat of said property; (b) join in granting any easement or creating any restriction thereon or join in any subordination or other agreement affecting this deed or the lien or charge thereon; (d) reconvey, without warranty, all or part of the property. The grantee in any reconveyance shall be described as the "person or persons legally entitled to the property" and the recitals therein of any matters or facts shall constitute conclusive proof of the truthfulness thereof. Trustee's fees for any of the services mentioned in this paragraph shall be not less than \$500.00 per man at all

be conclusive proof of the fulfillment of the conditions of said paragraph shall be not less than \$5 services mentioned in said paragraph. The grantor hereby agrees that the beneficiary may, at any time without notice, either in person, by agent or by a receiver or attorney-in-fact, as may be pointed by a court, and without regard to the time of day, enter upon and take possession of said property, the individual or individuals named in said paragraph, and the beneficiary shall, in turn, pay to the individual or individuals named in said part thereof, in its own name and or otherwise collect the rents, issues and profits, including those past due and unpaid, and the beneficiary shall also pay the legal fees and costs and expenses of collection and collection, including reasonable attorney's fees, upon the 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.

waive any default or notice of default provisions pursuant to such notice. 2. Upon default by grantor in payment of any indebtedness secured hereby or in his performance of any agreement hereunder, the beneficiary may, in such an event the beneficiary may, if it so chooses, proceed to foreclose this trust deed by advertisement and sale. In the latter event the beneficiary or the trustee may execute and cause to be recorded his written notice of sale to satisfy the obligation secured hereby then described and the trustee shall fix the time and place of sale, give notice thereof and as then required by law and proceed to foreclose this trust deed in the manner provided in ORS 86.735 to 86.795.

13. After the trustee has commenced foreclosure by advertisement and sale, and at any time prior to 5 days before the date the trustee conducts the sale, the grantor or any other person so privileged by ORS 86.753, may cure the default or defaults. If the default consists of a failure to pay, when due, the sums secured by the trust deed, the default may be cured by paying the sums so secured when due at the time of the cure other than such portion as would entitle the lender to a credit for interest on the sums so secured. If the default is then he due had no default occurred. Any other default that is capable of being cured may be cured by tendering the performance of the obligation or the being cured my be cured by tendering the performance to curing the default or obligation or trust deed. In any case, the person effecting the cure shall pay to the beneficiary all costs and expenses incurred in enforcing the obligation of the trust deed together with trustee's and attorney's fees not exceeding the amounts provided by law.

14. Otherwise, the sale shall be held on the date and at the time and place designated in the notice of sale or the time to which said sale may be postponed as provided by law. The trustee may sell said property either in one parcel or in separate parcels and saleable at the time of sale. Trustee shall deliver to the purchaser cash, payable at the time of sale. Trustee at auction to the highest bidder for cash, payable as required by law conveying the property so sold, and in form as required by law conveying the property so sold, without any covenant or warranty, express or implied. The receipt of 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 the powers provided herein, trustee shall apply the proceeds of sale to payment of (1) the expenses of sale, in addition to the compensation of the trustee and a reasonable charge by trustee's attorney, (2) to the obligation secured by the trust deed of the trustee in the trust having recorded liens subsequent to the date of recording of the trust deed as having recorded liens apparent in the order of their priority and (3) the deed as their interest 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. 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, with all title, powers and duties conferred upon the trustee herein named or appointed hereunder. Each such appointment and substitution shall be made by written instrument duly executed by the trustor and recorded in the mortgage records 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, the United States or any agency thereof, or an escrow agent licensed under ORS 696.505 to 696.585.

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 except Trust Deed dated December 31, 1981 and recorded December 31, 1981 in Volume M81, page 22309, Microfilm Records of Klamath County, Oregon, which Grantors herein agree to assume and to pay in full 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 as 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, or is not to finance the purchase of a dwelling use Stevens-Ness Form No. 1306, or equivalent. If compliance with the Act is not required, disregard this notice.

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

STATE OF OREGON,

Klamath

) ss.

County of

July 16, 1984

Personally appeared the above named

Jim Mieloszyk and Karyn Mieloszyk

STATE OF OREGON, County of

) ss.

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Personally appeared

and

who, each being first

duly sworn, 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 the 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:

(OFFICIAL SEAL)

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

Before me:

Notary Public for Oregon

My commission expires: 7/13/85

Notary Public for Oregon

My commission expires:

(OFFICIAL SEAL)

#### 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

(FORM No. 881)

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

Jim Mieloszyk & Karyn Mieloszyk

Grantor

Marylee Butler & Charles A. Butler

Beneficiary

AFTER RECORDING RETURN TO

MOUNTAIN TITLE CO. INC.

SPACE RESERVED  
FOR  
RECORDER'S USE

STATE OF OREGON, } ss.  
County of Klamath

I certify that the within instrument was received for record on the 17th day of July, 1984, at 11:36 o'clock A.M., and recorded in book/reel/volume No. M81 on page 12021 or as fee/file/instrument/microfilm/reception No. 38885, Record of Mortgages of said County.

Witness my hand and seal of County affixed.

Evelyn Biehn, County Clerk

By *[Signature]* Deputy

Fee: \$8.00