

68446

TRUST DEED

THIS TRUST DEED, made this 18th day of NOVEMBER

DAVID PAUL HARRIS & LOUISE HARRIS

as Grantor, WILLIAM M. GANONG

as Grantor,
CERTIFIED MORTGAGE, AN OREGON CORPORATION

POOL "A" 500

WITNESSETH:

Grantor irrevocably grants, bargains, sells and conveys to trustee in trust, with power of sale, the property in KLAMATH County, Oregon, described as:

PARCEL 1: E $\frac{1}{2}$ E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$ E $\frac{1}{2}$ of Government Lot 16, in Section 14, Township 36 South, Range 10 East of the Willamette Meridian, Saving and excepting therefrom any portion lying within any Roads or Highways.

PARCEL 2: E $\frac{1}{2}$ of Government Lot 17, in Section 14, Township 36
South, Range 10 East of the Willamette Meridian.

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 TWENTY-EIGHT THOUSAND FIVE HUNDRED \$28,500.00, to the grantee, according to the terms of a promissory

sum of **(\$28,500.00)** 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 any, shall be paid to be due and payable **November 18, 1993** on the date of maturity of the note above on which the final installment of said note

The date of maturity of the debt secured by this instrument is the date stated above, on which the final installment 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.

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.

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 perils as the beneficiary may from time to time require, in an amount not less than \$ _____, written in favor of the beneficiary, or of the beneficiary's heirs, assigns, executors, administrators, or assigns, and to cause the beneficiary, with loss payable to the beneficiary, as soon as insured; policies of insurance shall be delivered to the beneficiary as soon as insured; and if the grantor shall fail to cause the beneficiary to procure any such insurance and to deliver said policy to the beneficiary at least fifteen days prior to the expiration of any policy of insurance now or hereafter placed on said buildings, then the beneficiary may procure the same, at grantor's expense, and the amount so collected under any fire or other insurance policy so procured by the beneficiary shall be paid by the beneficiary to the beneficiary, or to the beneficiary's heirs, assigns, executors, administrators, or assigns, in such order as beneficiary may determine, and the beneficiary shall release the beneficiary the entire amount so collected, or may determine, or the beneficiary may release to grantor. Such application or release shall not constitute a release of the beneficiary from the obligation to maintain the insurance, nor cure or waive any default or notice of default hereunder or invalidate any action brought by the beneficiary or the beneficiary's heirs, assigns, executors, administrators, or assigns, to enforce the provisions hereof, and to pay all costs and expenses of the beneficiary or the beneficiary's heirs, assigns, executors, administrators, or assigns, in connection with the enforcement of the provisions hereof.

act done pursuant to the foregoing, the 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 or 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, or other charges payable by grantor, either directly or through a third party, providing beneficiary with funds with which to, by direct payment to the beneficiary, make, at its option, make payment thereof; and the amount so paid, with interest at the rate set forth in paragraphs 6 and 7 of this hereby, together with the obligations described in paragraph 6 of this trust deed, shall be added to and become a part of the debt secured by this trust deed, without waiver of the grantor's rights arising from breach of any of the covenants hereof, and for such payments, with interest as aforesaid, the property hereinbefore described, as well as the grantor, shall be bound to, to the extent that they are bound for the payment of the obligations hereby described, and all such 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 the costs and expenses of this trust including the costs of title work, 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. The court shall, in and defend any action or proceeding purporting to affect the security rights or powers of beneficiary or trustee and in any action or proceeding in which the beneficiary or trustee may appear, including action or proceeding in which the beneficiary or trustee may be a party, including the foreclosure of a deed of trust, all costs and expenses, including any suit for the foreclosure of a deed of trust, the beneficiary's or trustee's attorney's fees; including evidence of the attorney's fees mentioned in this paragraph 7 in all cases shall be a part of the costs of the action or proceeding and shall be paid by the grantor fixed by the trial court and in the event of an appeal shall be paid by the grantor fixed by the trial court; grantor further agrees to pay any such sum as the trial court or the court of appeals may determine to be reasonable as the beneficiary's or trustee's attorney's fees in any such appeal.

[illegible]

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 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 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 grantees, in legal contemplation of the above, may be described as the "person or persons" designated "beneficiaries" herein, 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 \$5.00.

10. Upon any default by grantor hereunder, beneficiaries may at any time without notice, either in person, by agent or by attorney, cause to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereunder, to take title upon and take possession of said property, and any or all of the following: (a) take possession of the property and 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 its performance of any advertisement hereunder, the beneficiary may declare all of the indebtedness hereby immediately due and payable. In such an event, 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 shall cause the advertisement and sale. In the event of default by the grantor, the trustee shall execute and cause to be recorded his written assignment to satisfy the obligation secured hereby without recourse to the trustee. In the event of default by the grantor, the trustee shall sell the said subject property at 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 86.735 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 before the date of ORS 86.753, may cure the default or defaults. If the default consists of a failure to pay, when due, the amount due by the trust deed, the default may be cured by paying the amount due at the time of the cure other than such portion as would not then be due had no default occurred. Any other default that is not then being cured may be cured by tendering the performance required under the obligation or trust deed. If the cure is not made in addition to curing the default or defaults, the personally 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 shall have the right to accept bids in auction to the highest bidder, or to sell the property at the time of sale. Trustee may sell the property as purchaser its deed in form as required by law conveying the property to said, but without any covenant or warranty, express or implied. The recitals in the deed of any matters of fact shall be conclusively binding on the trustee. Any third party, including the trustee, but including the trust 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 attorney, (2) to the obligation incurred by the trust deed, (3) to all prepaying having recorded liens subordinate to the interest of the trustee in the trust deed as their interests may appear in the order of their priority and (4) to 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 succeed to the trust 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 or appointed hereunder. The appointment of a successor and substitution shall be made by a written instrument executed by beneficiary which, when filed with 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 obligated to notify any party hereto of pending sale under any other deed 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, the United States or any agency thereof or an escrow agent licensed under ORS 696.505 to 696.585.

