

MTC-20050
TRUST DEED

THIS TRUST DEED is made this 28 day of July, 1988, between WILLIAM B. JOHNSON and MARY A. JOHNSON, as grantor, MOUNTAIN TITLE COMPANY OF KLAMATH COUNTY, as trustee, and LINDA B. NELSON, SUANA L. NICHOLSON, and LINDA B. NELSON AND SUANA L. NICHOLSON, CO-TRUSTEES OF THE TESTAMENTARY TRUST ESTABLISHED BY THE LAST WILL AND TESTAMENT OF B. MARGUERITE WHYTAL, DECEASED, DATED DECEMBER 5, 1978, as beneficiary;

The interests of the beneficiary in this Trust Deed are as follows:

Linda B. Nelson	50%
Suana L. Nicholson	25%
Linda B. Nelson and Suana L. Nicholson, Co-Trustees of the B. Marguerite Whytal Testamentary Trust	25%

WITNESSETH

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

SEE EXHIBIT A ATTACHED HERETO AND BY THIS
REFERENCE MADE A PART HEREOF

And more commonly known as 2126 Lakeshore Drive, Klamath Falls, Oregon.

Together with all and singular the tenements, hereditaments, and appurtenances and all other rights thereunder belonging or in any way 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 Forty-Four Thousand Three Hundred and 00/100 Dollars (\$44,300.00), 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 July 29, 1990.

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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.

To protect the security of this Trust Deed, grantor agrees:

- (1) Preservation of Premises. To protect and preserve the property and to maintain it in good condition and repair.
- (2) Non-Demolition. Not to remove or demolish any building or improvement now existing on the property or hereafter constructed.
- (3) Reconstruction and Construction. To complete or restore promptly and in good and workmanlike manner any building or improvement which may be constructed, damaged or destroyed on the property, and to pay when due all costs incurred therefor.
- (4) Waste. Not to commit or permit the waste of the property.
- (5) Compliance. To comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting the property.
- (6) Insurance. To provide and maintain insurance against loss by fire and other hazards, casualties and contingencies, including war damage, as may be required from time to time by the beneficiary, in an amount not less than the full insurable value, with loss payable solely to beneficiary, and to deliver all policies to beneficiary, which delivery shall constitute an assignment to beneficiary of all return premiums.
- (7) Legal Actions. To appear and defend any action or proceeding purporting to affect the security hereof or the rights or powers of beneficiary or trustee; and, should beneficiary or trustee elect to also appear in or defend any such action or proceeding, to pay all costs and expenses, including costs of evidence of title and attorney's fees in a reasonable sum incurred by beneficiary or trustee, as may be fixed by the trial court and by any appellate court.

(3) Taxes, Water Charges. To pay, at least ten (10) days before delinquency, all taxes and assessments affecting the property, and all rents, assessments and charges for water, appurtenant to or used in connection with the property; to pay, when due, all encumbrances, charges, and liens, with interest, on the property or any part thereof, which at any time appear to be prior or superior hereto; to pay all costs, fees and expenses of this trust.

(9) Cure. Should grantor fail to make any payment or to do any act as herein provided, the beneficiary or trustee, but without obligation so to do and without notice to or demand upon grantor and without releasing grantor from any obligation hereof, may: make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, beneficiary and trustee being authorized to enter upon the property for such purposes; commence, appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of beneficiary or trustee; pay, purchase, contest, or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior hereto; and, in exercising any such powers, incur any liability, expend whatever amounts in their absolute discretion they may deem necessary therefor, including costs of evidence of title, employing counsel, and the payment of such counsel's reasonable fees, whether in the trial court or any appellate court.

(10) Repayment of Advances. To pay immediately and without demand all sums expended hereunder by beneficiary or trustee, with interest from date of expenditure at the rate provided on the principal debt, and the repayment thereof plus interest at the said note rate per annum shall be secured hereby.

(11) Condemnation or Destruction. Should the property or any part thereof be taken or damaged by reason of any public improvement or condemnation proceeding, or damaged by fire, or earthquake, or in any other manner, beneficiary shall be entitled to all compensation, awards, and other payment or release therefor, and shall be entitled at their option to commence, appear in and prosecute in their own name, any action or proceedings, or to make any compromise or settlement, in connection with such taking or damage. All such compensation, awards, damages, rights of action and proceeds, including the proceeds of any policies of fire or other insurance affecting the property, are hereby assigned to beneficiary, who may after deducting therefrom all their expenses, including attorney fees, release any money so received by them or apply the same on any indebtedness secured hereby. 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. Grantor agrees, at their own expense, to execute such further assignment of any compensation, award, damage, and rights of actions and proceeds as beneficiary or trustee may require, promptly upon the beneficiary's or trustee's request.

(12) Non-Waiver. By accepting payment of any sum secured hereby after its due date, beneficiary does not waive their right either to require prompt payment when due of all other sums so secured or to declare default for failure so to pay.

(13) Encumbrances and Conveyances. At any time and from time to time upon written request of beneficiary, payment of their fees and presentation of this Deed and the Note for endorsement (in case of full reconveyance, for cancellation and retention), 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 the property; (b) join in granting an easement or creating any restriction thereon; (c) join in any subordination or other agreement affecting this Deed or the lien or charge thereof; and (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.

(14) Possession Upon Default. Upon any default by grantor hereunder, beneficiary may at any time without notice, either in person, by agent, or by 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 the property or any part thereof, in their own name sue for or otherwise collect said 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 fees, upon any indebtedness secured hereby, and in such order as beneficiary may determine.

(15) Effective Possession by Beneficiary. The entering upon and taking possession of the property, the collection of such rents, issues and profits, or the proceeds of fire or 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 pursuant to such notice.

(16) Failure to Repair. It shall be deemed a default under the terms of the Note and this Trust Deed if the grantor fails to repair, or causes to be repaired, in a workmanlike manner, the dry rotted materials in the dwelling, fails to remove the cellulose

debris from the crawlspace and install additional vents in the foundation, all as described in the Structural Reports and Job Estimate dated July 13, 1988 submitted by Ron Hopson on or before January 31, 1989.

(17) Notice of Default. Upon breach of or default in any of the provisions of the Trust Deed by the grantor, time being of the essence with respect to such payment and/or performance, the beneficiary may declare all sums secured hereby immediately due and payable. In such an event, the beneficiary at their election, may proceed to foreclose this Trust Deed by advertisement or direct the trustee to foreclose this Trust Deed in equity as a mortgage or sale, or may direct the trustee to pursue any other right or remedy, either at law or equity, which the beneficiary may have. In the event the beneficiary elects to foreclose by advertisement and sale, the beneficiary or the trustee shall execute and cause to be recorded a written notice of default and 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 close this Trust Deed in the manner provided by ORS 86.735 to 86.795.

After the trustee has commenced foreclosure by advertisement and sale, at any time prior to five (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, sums secured by the Trust Deed, the default may be cured by paying the entire 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 capable of being cured, may be cured by tendering the performance required under the obligation or Trust Deed. In any case, in addition to curing the default or defaults, the person effecting the cure shall pay to the beneficiary all costs and expenses actually incurred in enforcing the obligation of the Trust Deed, together with trustee's and attorney's fees not exceeding the amounts provided by law.

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 sell the parcel or parcels at auction to the highest bidder for cash, payable at the time of sale. The trustee shall deliver to the purchaser his 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.

When the 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 and the Trust Deed as their interest may appear in the order of their priority; and (4) the surplus, if any, to the grantor or their successors in interest entitled to such surplus.

(18) Successor Trustee. 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 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 Recorder of the county or counties in which the property is situated, shall be conclusive proof of proper appointment of the successor trustee.

(19) Acceptance. Trustee accepts this Trust Deed, when this Trust Deed, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obliged to notify any party hereto of a pending sale under any other Trust Deed or of any action or proceeding in which the grantor, beneficiary, or trustee shall be a party, unless such action or proceeding is brought by the trustee.

(20) Grantor's Warranty of Title. The grantor covenants and agrees to and with the beneficiary and those claiming under them, that they are lawfully seized in fee simple of said described real property and have a valid, unencumbered title thereto and that they will warrant and forever defend the same against all persons whomsoever.

(21) Governing Law. This Trust Deed shall be construed according to the laws of the State of Oregon.

(22) Notices. All notices, demands, requests or other communications hereunder shall be in writing and shall be deemed to have been duly given or made when either delivered in person to the party to which such notice, demand, request or other communication

is required or permitted to be given or made hereunder, or the same is deposited as registered or certified mail, postage prepaid, addressed to such party at the following address:

Grantor: William B. Johnson
Mary A. Johnson
2126 Lakeshore Drive
Klamath Falls, Oregon 97601

Trustee: Mountain Title Company of Klamath County
407 Main
Klamath Falls, Oregon 97601

Beneficiary: Linda B. Nelson
30737 S.E. Waybill Road
Boring, Oregon 97009

Suana L. Nicholson
c/o Linda B. Nelson
30737 S.E. Waybill Road
Boring, Oregon 97009

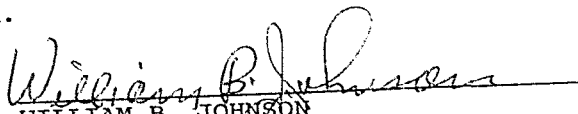
Linda B. Nelson and Suana L. Nicholson,
Co-Trustees of the B. Marguerite
Whytal Testamentary Trust
c/o Linda B. Nelson
30737 S.E. Waybill Road
Boring, Oregon 97009

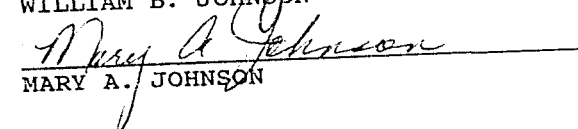
or to such other addresses as such parties may hereafter notify the other in writing.

(23) Miscellaneous. This Trust Deed shall inure to and bind the heirs, legatees, designees, administrators, executors, successors, and assigns of the parties hereto. All obligations of grantor hereunder are joint and several. The term "beneficiary" shall mean the owner and holder, including pledgees, of the Note secured hereby, whether or not named as beneficiary herein.

The grantor warrants that the proceeds of the loan represented by the above-described Note and this Trust Deed are primarily for grantor's personal, family or household purposes.

IN WITNESS WHEREOF, grantor has hereunto set their hand the day and year first above written.


WILLIAM B. JOHNSON


MARY A. JOHNSON

12137

STATE OF OREGON

County of Klamath

)
) ss.
)

This instrument was acknowledged before me on the 28 day
of July, 1988, by William B. Johnson and Mary A. Johnson.

Darlene O. Tucker

Notary Public for Oregon

My Commission Expires:

6-16-92

AFTER RECORDING, RETURN TO:

mt title Co
407 Main
Klamath Falls, OR 97601

* * *

REQUEST FOR FULL RECONVEYANCE

(To Be Used Only When Obligations Have Been Paid)

TO: Mountain Title Company of Klamath County

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__.

BENEFICIARIES:

LINDA B. NELSON_____
SUANA L. NICHOLSON_____
LINDA B. NELSON, CO-TRUSTEE OF THE
TESTAMENTARY TRUST ESTABLISHED BY
THE LAST WILL AND TESTAMENT OF
B. MARGUERITE WHYTAL, DECEASED,
DATED DECEMBER 5, 1978_____
SUANA L. NICHOLSON, CO-TRUSTEE OF
THE TESTAMENTARY TRUST ESTABLISHED
BY THE LAST WILL AND TESTAMENT OF
B. MARGUERITE WHYTAL, DECEASED,
DATED DECEMBER 5, 1978

AFTER RECORDING, RETURN TO:

Linda B. Nelson
30737 S.E. Waybill Road
Boring, Oregon 97009

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EXHIBIT "A"
LEGAL DESCRIPTION

PARCEL 1:

Beginning at the most Westerly corner of a parcel of land conveyed by Kincaid to Lillard as described in a deed recorded in Klamath County Deed Records, Volume 114, page 586, which point of beginning is on the Northerly right of way line of Lakeshore Drive and is South 75 degrees 29' East a distance of 118.42 feet from the most Northerly corner of Lot 26 in Ouse Kila Homesites, thence South 45 degrees 03' East a distance of 36.78 feet; thence Southeasterly along the arc of a curve which designates the Northerly right of way line of said Lakeshore Drive, whose radius is 380.9 feet in length, a distance of 163.22 feet; thence North 25 degrees 0' East a distance of 200 feet, more or less, to the shore-line of Upper Klamath Lake; thence Westerly along said shore-line a distance of 150 feet, more or less, to a point which is North 48 degrees 43' East from the point of beginning; thence South 48 degrees 43' West a distance of 136 feet, more or less to the point of beginning, being a parcel of land in the NE1/4 NE1/4 of Section 26, Township 38 South, Range 8 East of the Willamette Meridian.

Tax Account No.: 3808 026AA 02300

PARCEL 2:

Beginning at a point on the East right of way line of Secondary Highway No. 421 which lies North 89 degrees 59' East (this bearing is South 89 degrees 57' East in Lakewood Heights) a distance of 1375.08 feet and South 44 degrees 08' East along the East right of way line of the Highway a distance of 78.29 feet from the iron pin which marks the quarter section corner common to Sections 23 and 26, Township 38 South, Range 8 East of the Willamette Meridian in Klamath County, Oregon, (note this point of beginning marks the most Westerly corner of the tract described on page 531, Volume 164, Deed Records of Klamath County, Oregon) and running thence North 48 degrees 43' East along the Northwesterly line of the above noted tract a distance of 138.5 feet to a point on the shore-line of Upper Klamath Lake; thence North 66 degrees 17' West along the shore line of Upper Klamath Lake a distance of 12.76 feet to an iron pin; thence South 43 degrees 45' West a distance of 133.6 feet, more or less, to the point of beginning, said parcel being in Section 23, Township 38 South, Range 8 East of the Willamette Meridian and Section 26, Township 38 South, Range 8 East of the Willamette Meridian.

Tax Account No.: 3808 026AA 02300

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STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Mountain Title Co.
of July A.D. 1988 at 9:19 o'clock A.M., and duly recorded in Vol. M88
of Mortgages on Page 12130
FEE \$53.00
By Evelyn Biehn County Clerk
Pauline Threlkeld