

94929

TRUST DEED

Vol. m88 Page 21265

THIS TRUST DEED, made this 20th day of November, 1988, between

DAVID A. MANLEY &amp; CYNTHIA A. MANLEY, husband and wife

as Grantor, and MOUNTAIN TITLE COMPANY OF KLAMATH COUNTY

PAUL W. NEIL

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:

SEE LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF.

TRUST DEED

together with all and singular the tenements, hereditaments 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 EIGHTY THOUSAND AND NO/100

(\$80,000.00) 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 November 20, 2008.

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. 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 and sign any 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 and 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 \$ \_\_\_\_\_, with loss payable to the latter; all companies acceptable to the beneficiary, with loss payable to the latter; all 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 the beneficiary at least fifteen days prior to the expiration of any 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 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 said 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 and other charges become past due or delinquent, and promptly deliver receipts therefor to the 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 beneficiary may, at its option, make payment thereof, and the amount so paid, with interest at the rate set forth in the note secured hereby, together with the obligations 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 hereinafter described, as well as the grantor, shall be bound to the same extent that they are bound for the payment of the obligation herein described; and all such payments shall be immediately due and payable without notice, and the nonpayment thereof shall, at the option of the beneficiary, constitute 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 in enforcing this obligation and trustee's and attorney's fees actually incurred in and defending 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 all costs 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 as found by the trial court and in the event of an appeal from any judgment or decree of 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.
7. It is mutually agreed that:
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 to elect, to require that all or any portion of the monies payable as compensation for such taking, which are in excess of the amount actually paid or to pay all reasonable costs, expenses and attorney's fees necessarily paid or incurred by grantor in such proceedings, shall be paid to beneficiary and applied by it first upon any reasonable costs and expenses and attorney's fees, 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, at its own expense, to take such action and execute such instruments as shall be necessary in obtaining such compensation, promptly upon request of the beneficiary.
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 shall (a) consent to the making of any map or plat of said property; (b) join in

granting any easement or creating any restriction thereon; (c) join in any subordination of such interests 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 or otherwise collect the rents, issues and profits, 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, at its option, elect to foreclose this deed by advertisement and sale, or may direct the trustee to pursue any other right or remedy, either at law or in 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 his written notice of default and his election to sell the said described real property to satisfy the obligation 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 86.735 to 86.755.

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 amount or amounts due by the trust deed, the default may be cured by paying the entire amount due at the time of the cure or other than the performance required under the 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 obligation or trust deed, 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.

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 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 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 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. Beneficiary may from time to time appoint a successor or successors to any trustee named herein or to any successor trustee appointed hereon. 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 shall be made by written instrument executed by beneficiary, and such instrument shall be 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 the United States or any agency thereof, or an escrow agent licensed under ORS 696.05 to 696.585. property of this state, its subsidiaries, affiliates, agents or branches, the United States or any agency thereof, or an escrow agent licensed under ORS 696.05 to 696.585.

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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 or household purposes (see Important Notice below).

(b) for the purchase of real property for the grantor's personal, family or household 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 use Stevens-Ness Form No. 1319, 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, County of Klamath

This instrument was acknowledged before me on 12/12, 1988, by David A. Manley & Cynthia A. Manley

Betty L. Ramsey  
Notary Public for Oregon  
My commission expires: 8-22-90

REQUEST FOR FULL RECONVEYANCE

To be used only when obligations have been paid.

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: 12/12/88

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		STATE OF OREGON,	
(FORM No. 881)		County of _____ } ss.	
STEVENS-NESS LAW PUB. CO., PORTLAND, ORE.		I certify that the within instrument was received for record on the _____ day of _____, 19____, at _____ o'clock _____ M., and recorded in book/reel/volume No. _____ on page _____ or as fee/title/instrument/microfilm/reception No. _____ Record of Mortgages of said County.	
David A. & Cynthia A. Manley P. O. Box 27 Crescent Lake, OR 97425	Grantor	Witness my hand and seal of County affixed.	
Paul W. Neil 570 Merrie Dr. Corvallis, OR 97330	Beneficiary	By _____ NAME TITLE By _____ NAME TITLE	
AFTER RECORDING RETURN TO MOUNTAIN TITLE COMPANY		By _____ NAME TITLE	



## LEGAL DESCRIPTION

A tract of land located in the West half of Section 1, Township 24 South, Range 6 East of the Willamette Meridian, Klamath County, Oregon, described as follows:

Beginning at the West quarter corner of said Section 1, said corner being the true point of beginning; thence North 00 degrees 01' 12" East along the West line of said Section 1 a distance of 2588.97 feet to the Northwest corner thereof; thence South 89 degrees 39' 59" East along the North line thereof, 1307.67 feet to the Northeast corner of the West half of the Northwest quarter of said Section 1; thence South 00 degrees 01' 00" West along the East line thereof, 2600.97 feet to the Southeast corner thereof; thence South 89 degrees 08' 54" East along the North line of the Southwest quarter of said Section 1, a distance of 747.79 feet; thence South 26 degrees 37' 02" West 113.67 feet; thence South 62 degrees 40' 27" East, 121.83 feet to the Western right of way line of Crescent Lake County Road 429; thence South 27 degrees 08' 24" West along said right of way 564.02 feet to the center thread of Cold Creek; thence Westerly and upstream of Cold Creek the following bearings and distances; North 64 degrees 50' 20" West, 23.05 feet; South 64 degrees 49' 59" West, 44.67 feet; North 66 degrees 51' 55" West, 128.81 feet; South 61 degrees 42' 02" West, 95.69 feet; North 60 degrees 54' 16" West, 24.24 feet; North 4 degrees 23' 16" West, 77.48 feet; South 69 degrees 48' 44" West, 51.41 feet; North 60 degrees 42' 39" West, 24.08 feet; North 10 degrees 16' 10" East, 51.27 feet; South 86 degrees 56' 54" West, 27.19 feet; South 65 degrees 50' 56" West, 125.53 feet; South 49 degrees 34' 16" West 44.33 feet; North 87 degrees 03' 34" West, 216.16 feet; North 57 degrees 40' 20" West, 99.47 feet; South 80 degrees 10' 56" West, 196.81 feet; North 61 degrees 17' 07" West, 79.93 feet; South 76 degrees 40' 15" West, 200.12 feet; North 80 degrees 43' 23" West, 96.02 feet; North 64 degrees 28' 39" West, 51.18 feet; South 79 degrees 18' 39" West, 255.58 feet; North 63 degrees 28' 04" West, 40.00 feet and North 89 degrees 24' 37" West, 145.84 feet to the West line of said Section 1; thence leaving the thread of said stream, North 00 degrees 18' 39" East along said West line, 609.54 feet to the true point of beginning, with bearings and distances based on Minor Partition 51-83 as filed in the Klamath County Engineer's Office.

Tax Account No.: 2406 00100 00200  
2406 001CA 00100 (covers other property)

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Mountain Title Co. the 14th day  
of Dec. A.D. 19 88 at 12:18 o'clock P.M., and duly recorded in Vol. M88  
of Mortgages on Page 21265  
By Evelyn Biehn County Clerk  
Douglas Muslander

FEE \$18.00