

90641

11-04-94A11-04 RCVD

When recorded, mail to:

Vista Funding Company
1100 Alma Street, Suite #205
Menlo Park, CA 94025

Vol. m94 Page 34208Loan No.: 236 MTC 34100**DEED OF TRUST WITH ASSIGNMENT OF RENTS**

(This space for recorders use only)

(This Deed of Trust contains an Acceleration Clause)

This DEED OF TRUST made October 18, 1994 between:

Thomas R. Welding and Dephane Welding husband & wife as joint tenants

herein called TRUSTOR, whose address is: 1309 Hilliker Pl.
Livermore, CA 94550-
and American Title Insurance Co.

herein called TRUSTEE, and

Martin Mackowski a married man as to a 135/135 interest.

herein called BENEFICIARY;

WITNESSETH: The Trustor irrevocably GRANTS, TRANSFERS, AND ASSIGNS TO TRUSTEE, in Trust, with
POWER OF SALE, that property in the State of Oregon in the City of Klamath Falls
County of Klamath described as:

See exhibits "A" and "B" attached hereto and made a part hereof.

Together with the rents, issues and profits thereof, together with all rights and interest of Trustor, to all
appurtenances, easements, community interests and licenses, and to oil, mineral, gas, water, water certificates, and
hydrocarbon rights, leases and overriding royalties therein, and all of these, whether appurtenant, riparian or
appropriate. SUBJECT HOWEVER, to the right, power and authority given to and conferred upon Beneficiary by
paragraph 12 of the provisions incorporated by reference herein, to collect and apply such rents, issues and profits.

FOR THE PURPOSE OF SECURING:

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- (1) Performance of each agreement of Trustor incorporated by reference or contained herein;
- (2) Payment of the indebtedness evidenced by ONE PROMISSORY NOTE of even date herewith and any amounts that may become due thereunder, and all extensions, modifications, or renewals thereof, in the principal sum of \$ 135,000.00, executed by Trustor and payable to Beneficiary or order;
- (3) Payment of all sums of money, with interest thereon, which may be paid out or advanced by or may otherwise be due to Trustee or Beneficiary under any provision of this Deed of Trust.

In the event of sale, transfer, conveyance or alienation of said property, or any part thereof, or any interest therein, whether voluntary or involuntary, Beneficiary shall have the right of acceleration, at its option, to declare the note secured by this Deed of Trust, irrespective of the maturity date expressed therein, and without demand or notice, immediately due and payable. No waiver of this right shall be effective unless it is in writing. Consent by Beneficiary to one such transaction shall not constitute waiver of the right to require such consent in succeeding transactions.

To protect the security of this Deed of Trust, and with respect to the property described above, Trustor expressly makes each of all of the agreements, and adopts and agrees to perform and be bound by each and all of the terms and provisions set forth as follows:

- (1) To keep said property in good condition and repair; not to remove or demolish any building thereon; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon; to keep all buildings, structures and other improvements now or hereafter situated on the above described property at all times entirely free of dry rot, fungus, rust, decay, termites, beetles, and any other destructive insects or elements; to pay when due all claims for labor performed and materials furnished therefore to comply with all laws affecting said property or requiring any alterations or improvements to be made thereon; not to commit waste or permit waste thereof; not to commit, suffer or permit any act upon said property in violation of law; to cultivate, irrigate, fertilize, fumigate, prune, and do all other acts which from the character or use of said property may be reasonably necessary, the specific enumerations herein not excluding the general. Either Beneficiary or Trustee, or both, at any time during the continuation of the Deed of Trust, may enter upon and inspect said property, provided such entry is reasonable as to time and manner.
- (2) To provide, maintain and deliver to Beneficiary fire insurance satisfactory and with loss payable to Beneficiary. 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 the entire amount so collected or any part thereof may be released to Trustor. 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.
- (3) To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; and to pay all costs and expenses, including cost of evidence of title and attorney's fees in a reasonable sum, in any such action or proceeding instituted by Beneficiary or Trustee to protect or enforce the security of this Deed of Trust or the obligations secured hereby.
- (4) To pay at least ten days before delinquency all taxes and assessments affecting said property, including assessments on appurtenant water stock; when due, all encumbrances, charges and liens, with interest, on said property or any part appear to be prior or superior hereto; all costs, fees and expenses of this Trust.
- (5) Should Trustor fail to make any payments or to do any act as herein provided, then Beneficiary or Trustee, but without obligation to do so and without notice to or demand upon Trustor and without releasing Trustor 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 thereof, Beneficiary or Trustee being authorized to enter upon said property for such purposes; 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 thereto; and in exercising any such powers, pay necessary expenses, employ counsel and pay his reasonable fees.
- (6) To pay immediately and without demand all sums so expended by Beneficiary or Trustee, with interest from the date of expenditure at the rate prescribed in the Note. Should any additional funds be advanced on any note secured by a Trust Deed now of record, or should any change be made in the time or manner of paying such note, or should any other action be taken by the undersigned with respect to such note whereby the security herein provided for shall be impaired in any manner whatsoever, then the Note secured hereby shall, at the option of the lender, immediately become due and payable.
- (7) Any award of damages or sums received in settlement in connection with any condemnation for public use of or any injury to said property or any part thereof from any cause, is hereby assigned and shall be paid to Beneficiary who may apply or release such moneys received by him in the same manner and with the same effect as above provided for disposition of proceeds of fire or other insurance.
- (8) If the security for this Deed of Trust is a leasehold estate, Trustor agrees not to amend, change or modify his leasehold interest, or any of the terms thereof, or agree to do so, without the written consent of the Beneficiary being first obtained. In the event of a violation of this provision, Beneficiary shall have the right, at its option, to declare all sums secured hereby immediately due and payable.
- (9) By accepting payment of any sum secured hereby after its due date, Beneficiary does not waive his right either to require prompt payment when due of all other sums so secured or to declare default for failure to so pay.

Notwithstanding any provision herein or in the Note secured hereby to the contrary, Beneficiary or Trustee shall have the absolute right to direct manner, order and amount in which payments shall be applied upon or allocated among the various items composing Trustor's indebtedness secured hereby.

In the event of default in the payment of any of the moneys to be paid under the terms of the Note secured hereby or in the performance of any of the covenants and obligations of this Deed of Trust, then any funds in the possession of the Beneficiary, or other credits to which the Trustor would otherwise be entitled may, at the option of the Beneficiary, be applied to the payment of any obligation secured hereby in such order as the Beneficiary may, in its sole discretion determine.

(10) At any time or from time to time, without liability therefore and without notice upon written request of Beneficiary and presentation of this Deed and said Note for endorsement, and without affecting the personal liability of any person for payment of the indebtedness secured hereby, Trustee may: reconvey any part of said property; consent to the making of any map or plat thereof; join in granting any easement thereon; or join in any extension agreement or any agreement subordinating the lien or charge thereof. Trustee may, but shall be under no obligation or duty to, appear in or defend any action or proceeding purporting to affect said property or the title hereto, or purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee.

(11) Upon written request of Beneficiary stating that all sums secured hereby have been paid, and upon surrender of this Deed and said Note to Trustee for cancellation and retention and upon payment of its fees, Trustee shall reconvey, without warranty, the property then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The grantee in such reconveyance may be described as the "person or persons legally entitled thereto". The Trustee may destroy said Note, this Deed of Trust (and any other documents related thereto) upon the first to occur of the following: 5 years after issuance of a full reconveyance; or, recordation of the Note and Deed of Trust in a form or medium which permits their reproduction for 5 years following issuance of a full reconveyance.

(12) As additional security, Trustor hereby gives to and confers upon Beneficiary the right, power and authority, during the continuance of these Trusts, from time to time, to collect the rents, issues and profits of said property, reserving unto Trustor the right, prior to any default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, to collect and retain such rents, issues and profits as they become due and payable. Upon any such default, Beneficiary may at any time and from time to time without notice, either in person or 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 his own name sue for or otherwise collect such 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.

(13) The Deed applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term Beneficiary shall mean the owner or holder, including pledgees, of the Note secured hereby, whether or not named as Beneficiary herein. In this Deed, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural. As used herein, "fixtures" includes but is not limited to carpeting, built-in appliances, draperies and drapery rods, shrubs, water tanks, plumbing, machinery, air conditioners, ducts, and the like.

(14) 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 Trustor, Beneficiary or Trustee shall be a party unless brought by Trustee.

(15) Trustor agrees to pay Beneficiary or his agent, the maximum legal charge for a statement regarding the Trust Deed obligation herein. A statement includes but is not limited to a Beneficiary Statement, Credit Statement and any statement evidencing the debt.

(16) Acceptance by Beneficiary of a partial payment on account, after Notice of Default has been recorded, shall not be construed as curing the default nor as a waiver of past or future delinquencies of Trust Deed payment.

(17) Upon default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee of written declaration of default and demand for sale and of written Notice of Default and of election to cause to be sold said property, which notice Trustee shall cause to be filed for record. Trustee shall be entitled to rely upon the correctness of such notice. Beneficiary also shall deposit with Trustee this Deed, said Note and all documents evidencing expenditures secured hereby.

After the lapse of such time as then may be required by law following the recordation of said Notice of Default and Notice of Sale having been given as then required by law, Trustee, without demand on Trustor, shall sell said property at the time and place fixed by it in said Notice of Sale, either as a whole or in separate parcels and in such order as it may determine (but subject to any statutory right of Trustor to direct the order in which said property, if consisting of several lots or parcels, shall be sold), at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee may postpone sale of all or any portion of said property by public announcement at such time and place of sale, and from time to time thereafter may postpone such sale by public announcement at the time fixed by the preceding postponement. Trustee shall deliver to such purchaser its deed conveying the property so sold, but without any covenant or warranty, expressed or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person including the Trustor, Trustee, or Beneficiary as hereinafter defined, may purchase at such sale.

After deducting all costs, fees and expenses of Trustee and of this Trust, including cost of evidence of title in connection with sale, Trustee shall apply the proceeds of sale to payment of all sums expended under the terms hereof, not then repaid, with accrued interest at the rate prescribed in the Note; all other sums then secured thereby; and the remainder, if any, to the person or persons legally entitled thereto.

(18) Beneficiary, or any successor in ownership of any indebtedness secured hereby, may from time to time, by instrument in writing, substitute a successor or successors to any Trustee named herein or acting hereunder, which instrument, executed by the Beneficiary and duly acknowledged and recorded in the office of the recorder of the county or counties where said property is situated, shall be conclusive proof of proper substitution of such successor Trustee or Trustees, who shall, without conveyance from the Trustee predecessor, succeed to all its title, estate, rights, powers and duties.

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Said instrument must contain the name of the original Trustor, Trustee and Beneficiary hereunder, the book and page where this Deed is recorded and the name and address of the new Trustee. If Notice of Default shall have been recorded, this power of substitution cannot be exercised until after the costs, fees and expenses of the then acting Trustee shall have been paid to such Trustee, who shall endorse receipt thereof upon such instrument of substitution. The procedure herein provided for substitution of Trustees shall not be exclusive of other provisions for substitution provided by law.

(19) If the security under this Deed of Trust is a condominium or a community apartment or planned development project, Trustor agrees to perform each and every obligation of the owner of such condominium or interest in such project under the declaration of covenants, conditions and restrictions or bylaws or regulations pertaining to such condominium or project. Upon the request of Beneficiary, Trustor agrees to enforce against other owners in such condominium or project each and every obligation to be performed by them, if the same have not been performed or if valid legal steps have not been taken to enforce such performance within ninety (90) days after such request is made.

This undersigned Trustor(s), requests that a copy of any Notice of Default and any Notice of Sale hereunder be mailed to him at his address hereinbefore set forth.

SIGNATURE OF TRUSTOR

Thomas R. Welding
Thomas R. Welding

SIGNATURE OF TRUSTOR

Dephane Welding
Dephane Welding

State of California

County of AlamedaOn Oct. 28, 1994
Notary Public, personally appeared:

before me,

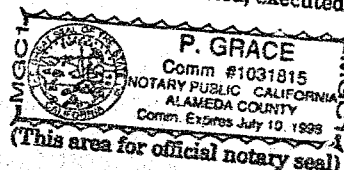
P. Grace

Thomas R. Welding and Dephane Welding
[] personally known to me; or
[] proved to me on the basis of satisfactory evidence
to be the person(s) whose name(s) IS/ARE subscribed to the within instrument, and acknowledged to me that
HE/SHE/THEY executed the same in HIS/HER/THEIR authorized capacity(ies), and that by HIS/HER/THEIR
signature(s) on the instrument the person or entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Notary Signature

Capacity of Signatory



Loan No. 2346

EXHIBIT A

Lot 17, Block 7, Tract 1140, LYNNWOOD FIRST ADDITION, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

Loan No. 236

EXHIBIT B

34213

Legal description of Livermore property copied from preliminary title report.

EXHIBIT "B"

LEGAL DESCRIPTION

The land referred to in this Report is situated in the State of California, un-incorporated area, County of Alameda, and is described as follows:

PARCEL 1:

That portion of Parcel A, Parcel Map 4289, filed April 18, 1985, Book 102 of Parcel Maps, Page 1, Alameda County Records and Parcels A and B, Parcel Map 4384, filed February 4, 1986, Book 159 of Parcel Maps, Page 37, Alameda County Records, described as follows:

Beginning at the intersection of the centerline of Las Positas Road and the centerline of Hilliker Place, as shown on Parcel Map 4384; thence along the centerline of Hilliker Place South $13^{\circ} 02' 25''$ East 85.72 feet, to the point of curvature of 200 foot radius curve to the left; thence Southerly along said curve, through a central angle of $9^{\circ} 30' 00''$ an arc distance of 33.16 feet to a point of tangency; thence tangent to said curve, South $22^{\circ} 32' 25''$ East 120.00 feet, to the point of curvature of a 200 foot radius curve to right; thence Southerly along said curve, through a central angle of $5^{\circ} 00' 00''$, an arc distance of 17.45 feet, to a point of tangency; thence tangent to said curve, South $17^{\circ} 32' 25''$ East 87.35 feet, to the true point of beginning; thence continuing South $17^{\circ} 32' 25''$ East, 179.65 feet, to the point of curvature of a 200 foot radius curve to the left; thence Southerly along said curve, through a central angles of $7^{\circ} 30' 00''$ an arc distance of 26.18 feet, to a point of tangency; thence tangent to said curve, South $25^{\circ} 02' 25''$ East, 179.65 feet, to the point of curvature of a 200 foot radius curve to the left; thence Southerly along said curve through a central angle of $7^{\circ} 30' 00''$ an arc distance of 26.18 feet, to a point of tangency; thence tangent to said curve, South $25^{\circ} 02' 25''$ East 161.88 feet; thence North $88^{\circ} 15' 00''$ East 303.88 feet, to the point of curvature of a 100 foot radius curve to the left; thence Southeasterly and Northeasterly along said curve, through a central angle of $50^{\circ} 58' 14''$ an arc distance of 88.96 to a point of cusp; thence South $52^{\circ} 43' 14''$ East 41.29 feet; thence South $36^{\circ} 45' 00''$ East, 145.00 feet; thence South $75^{\circ} 19' 02''$ East 350.41 feet; thence North $20^{\circ} 37' 30''$ West, 101.50 feet; thence North $8^{\circ} 35' 20''$ West, 152.32 feet; thence North $4^{\circ} 08' 40''$ East 124.83 feet; thence South $85^{\circ} 07' 19''$ West, 392.09 feet; thence North $61^{\circ} 33' 21''$ West 138.00 feet; thence South $28^{\circ} 26' 39''$ West 63.37 feet; thence North $78^{\circ} 44' 36''$ West 134.74 feet; thence North $17^{\circ} 39' 29''$ West, 218.10 feet; thence South $72^{\circ} 27' 35''$ West 189.84 feet, to the true point of beginning.

PARCEL 2:

A non-exclusive parcel perpetual easement, appurtenant to Parcel 1 above and any division or subdivision thereof, for purposes of ingress and egress of pedestrians, animals and vehicles of all kinds, and for the maintenance and repair of a driveway 25 feet wide, measured at right angles, extending from the Easterly line of that certain access

LEGAL DESCRIPTION
(CONTINUED)

Order No. 502214

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and Public utility easement 40 feet wide, designated as Hilliker Place on Parcel Map 2054, filed July 28, 1978, Book 102 of Parcel maps, Page 96, Alameda County Records, over, along and across a strip of land 25 feet wide, being that portion of Parcels A and B of Parcel Map 4289, filed April 18, 1985, Book 102 of Parcel Maps, page 1, Alameda County Records, shown on Parcel Map 4384, filed February 4, 1986, Book 159 of Parcel maps, Page 37, Alameda County Records, as "Access & Public utility Easement per PM 4289".

Said easement extends from the Eastern line of that 40 feet easement, designated as Hilliker Place, above mentioned, to the Northern line of said Parcel A, Parcel Map 4289.

Excepting therefrom that portion thereof lying within Parcel 1 above.

PARCEL 3:

An easement for ingress and egress of pedestrians, animals and vehicles of all kinds and for Public utilities over, under and along those portions of Parcels 1, 2 and 4, Parcel Maps, 2054, filed July 28, 1978, Map Book 102, Page 96, Alameda County Records, that lie within the boundaries of Hilliker place as shown on said Map.

Assessors Parcel No. 099-0015-023-04

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Mountain Title Co
of Nov A.D., 19 94 at 11:04 o'clock A M., and duly recorded in Vol. M94 day
of Mortgages on Page 34208
By Evelyn Biehn County Clerk
Pauline Miller

FEE \$45.00