

92289

12-09-94P01:51 RCVD

TRUST DEED

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THIS TRUST DEED, made this
S-B. SMITH and

.....08..... day of

-December

19.94..., between

JAMES B. SMITH and MELISSA

SMITH, as tenants by
MOUNTAIN TITLE COMPANY OF KLAMATH COUNTY
MASTEN & PATRICIA A. MASTEN

MOUNTAIN TITLE COMPANY OF K
STANLEY C. MASTEN & PATRICIA A. MASTEN
thereof

....., as Grantor,
....., as Trustee, and

Grantor irrevocably grants, bargains, sells
KLAMATH WITNESSETH:

SEE EXHIBIT A WHICH IS MADE A PART HEREOF BY THIS REFERENCE

SEE EXHIBIT A WHICH IS MADE A PART HEREOF BY THIS REFERENCE

together with all and singular the tenements, hereditaments
or hereafter appertaining, and the rents and profits thereof
the property.

FOR THE PURPOSE OF SECURING PERFORMANCE of each agreement of grantor herein contained and payment of the sum of THIRTY FIVE THOUSAND AND NO / 100ths ***** Dollars, with interest at the rate of _____ per annum, to be due and payable _____ The date of _____ note of even date herewith, payable to beneficiary or order and made _____ not sooner paid, to be due and payable _____ of _____ and the rents, issues and profits thereof and all fixtures now or hereafter attached to or used in connection with _____ hereditaments and appurtenances and all other rights thereunto belonging or in anywise now _____ and _____ property.

_____ Dollars, with interest thereon according to the terms of a promissory
becomes due and payable. Should the grantor either agree to, attempt to, or actually sell, convey, or assign all (or any part) of the prop-
erty or all (or any part) of grantor's interest in it without first obtaining 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 be-
come immediately due and payable. The execution by grantor of an earnest money agreement** does not constitute a sale, conveyance or
assignment.

To protect the security of this trust deed, grantor agrees:

1. To protect, preserve and maintain the property in good condition and repair;
2. To complete or restore promptly and in full any waste of the property;
3. To

To protect the security of this trust deed, grantor agrees:

1. To protect, preserve and maintain the property thereon; not to commit
2. To

- [illegible]

any 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.

WARNING: 12 USC 1701j-3 regulates and may prohibit exercise of this option.

*The publisher suggests that such an agreement address the issue of obtaining beneficiary's consent in complete detail

TRUST DEED

TRUST DEED

JAMES B. SMITH and MELISSA L. SMITH
28602 HWY. 70
BONANZA, OR 97623
Granite

STANLEY C. MASTEN & PATRICIA A. MASTEN
P.O. Box 156
Bonanza, OR 97623

After Recording Return to (Name, Address, Zip):
MOUNTAIN TITLE COMPANY
OF KLAMATH COUNTY
 222 S. Sixth Street
 Klamath Falls, OR 97601

STATE OF OREGON.

County of _____ SS.

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/tile/instrument/microfilm/reception No. _____ Record of _____ of said County. Witness my hand and seal of _____ County affixed.

NAME _____ TITLE _____
By _____ Deputy _____

which are in excess of the amount required 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 actions and execute such instruments as shall be necessary in obtaining such compensation, promptly upon beneficiary's request.

9. At any time and from time to time upon written request of beneficiary, the note for endorsement (in case

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 (a) consent to the making of any map or plat of the property; (b) join in 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) legally entitle 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 cause to be appointed by a court of competent jurisdiction a receiver to take possession of the property and execute such instruments as shall be necessary

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 the property or any part thereof, in its own name sue or otherwise 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 the 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 grantor's performance of any obligation secured hereby, due and payable. In such event, the 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 grantor's performance of any agreement hereunder, 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 may elect to proceed to foreclose this trust deed in equity as a mortgage or direct the trustee to foreclose this trust 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 a written notice of default and election to foreclose by advertisement and sale, the notice 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 86.795.

13. After the trustee has commenced foreclosure by advertisement and sale, the trustee shall execute and cause to be recorded a notice of completion of sale, the notice to be recorded as then required by law and proceed to conduct the sale, the grantor and all persons claiming under the grantor to be bound by the sale and the proceeds of the sale to be distributed as 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, 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.

14. Otherwise, the sale shall be held on the date and at the time and place designated in the deed. The trustee may postpone the sale may be postponed as provided by law. The trustee may postpone the sale may be postponed as 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 the sale may be postponed as provided by law. The trustee may sell the 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 grantor, the grantor's 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 any 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 trustee named hereinafter appointed hereunder. Upon such appointment, and without conveyance of powers and duties conferred upon the trustee, the trustee so appointed shall succeed to the powers and duties of the trustee so appointed hereunder.

16. Beneficiary may from time to time appoint a successor or successors to any trustee in the trust deed as their interests may be affected 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, which, when 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.

MEMORANDUM OF WHICH WAS RECORDED IN VOLUME 1002 PAGE 1002
COUNTY OF ... EXCEPT CONTRACT OF SALE

MEMORANDUM OF WHICH WAS RECORDED IN VOLUME M89, PAGE 14219, MICROFILM RECORDS OF KLAMATH COUNTY, OREGON, WHICH GRANTORS HEREIN DO NOT AGREE TO ASSUME AND PAY.

and that the grantor will warrant and forever defend the same against all persons whomsoever.

(a) *primarily for grantor's personal, family or household purposes (see Important Notice below).

~~THIS DEED AND THE INTERESTS HEREIN ARE HEREBY TRANSFERRED TO THE GRANTEE BY THE GRANTOR.~~

This deed and the interests herein are hereby transferred to the grantee by the grantor.

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 WITNESS WHEREOF, the grantor has executed this instrument.

IN WITNESS WHEREOF, the grantor has executed this instrument the day and year first above written.

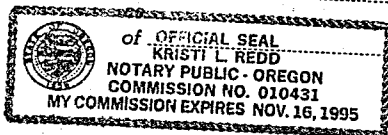
* **IMPORTANT NOTICE:** Delete, by lining out, whichever warranty (a) or (b) is not applicable; if warranty (a) is applicable and the beneficiary is a creditor as such word is defined in the Truth-in-Lending Act and Regulation Z, the beneficiary **MUST** comply with the Act and Regulation by making required disclosures; for this purpose use Stevens-Ness Form No. 1319, or equivalent. If compliance with the Act is not required, disregard this notice.

X *James B. Smith*
JAMES B. SMITH

MELISSA SMITH
amath.) ss

STATE OF OREGON, County of Klamath) ss. Melissa Smith
This instrument was acknowledged before me on 9 December 9, 19 94
by JAMES B. SMITH and MELISSA SMITH

This instrument was acknowledged before me on _____, 19____
by _____, 19____



Kristen L. Bell
My commission expires 11/16/95 Notary Public for Oregon

TO: _____, Trustee
 The undersigned is the legal owner and holder of all indebtedness secured by the foregoing trust deed. All sums secured by the 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 the trust deed or pursuant to statute, to cancel all evidences of indebtedness secured by the trust deed (which are delivered to you herewith together with the trust deed) and to reconvey, without warranty, to the parties designated by the terms of the trust deed the estate now held by you under the same. Mail reconveyance and documents to _____.

DATE: _____, 19____

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.

Beneficiary

37494

EXHIBIT "A"
LEGAL DESCRIPTION

A tract of land situated in the NE 1/4 SW 1/4 of Section 5, Township 39 South, Range 11 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at a 5/8 inch iron pin on the Southwesterly right of way line of the Dairy-Bonanza Highway, said point being North 43 degrees 48' 19" East a distance of 2158.79 feet from the Southwest corner of said Section 5; thence South 32 degrees 11' 38" West 178.21 feet to a 5/8 inch iron pin; thence North 58 degrees 52' 04" West 109 feet, more or less, to the West line of the NE 1/4 SW 1/4 of said Section 5; thence Northerly along the West line of the NE 1/4 SW 1/4 of said Section 5 217.3 feet, more or less, to the Southwesterly right of way line of said Dairy-Bonanza Highway; thence South 56 degrees 59' 00" East along said right of way line 225.5 feet, more or less to the point of beginning, with the bearings being based on a solar observation.

This Trust Deed is an All-Inclusive Trust Deed and is second and subordinate to the Memorandum of Contract now of record, recorded August 2, 1989 in Volume M89, page 14219, Microfilm Records of Klamath County, Oregon in favor of George O. Church aka George Church and Colleen C. Church aka Colleen Church as vendors.

Stanley C. Masten and Patricia A. Masten, beneficiaries herein, agree to pay when due, all payments due upon the said Real Estate Contract and will save Grantors herein harmless therefrom.

Should the said Beneficiaries herein default in making any payments due upon said prior Real Estate Contract, Grantor herein may make said delinquent payments and any sums so paid by Grantors herein shall then be credited upon the sums next to become due upon the Note secured by this All Inclusive Trust Deed.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Mountain Title co
of Dec A.D. 19 94 at 1:51 o'clock P M., and duly recorded in Vol. 9th day
of Mortgages on Page 37492
Evelyn Biehn
By Pauline Miller County Clerk

FEE \$20.00