

35397

TRUST DEED

Vol 95 Page 4184

THIS TRUST DEED made this 28th day of December, 1994, between Penny K. Miller

Mountain Title Company of Klamath County or its successors

Donald Kent Pittmann and Sandra Ann Pittmann, husband and wife or *** as Beneficiary, WITH ISSUE: *** the survivor thereof

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

Lot 8, Block 8, Tract 1019, WINNA PENINSULA, UNIT NO. 2, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

** See attached "EXIBIT"

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 the property.

FOR THE PURPOSE OF SECURING PERFORMANCE of each agreement of grantor herein contained and payment of the sum NINE THOUSAND, ONE HUNDRED FORTY SEVEN AND 22/100ths (\$9,147.22)

Dollars, with interest thereon according to the terms of a promissory note of even date herewith, payable to beneficiary or order and to be paid by grantor, the final payment of principal and interest hereof, if not sooner paid, to be due and payable

The date of maturity of the debt secured by this instrument is the date, stated above, on which the final installment of the note becomes due and payable. Should the grantor either agree to, attempt to, or actually sell, convey, or assign all (or any part) of the property or all (or any part) of grantor's interest in the property 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 become immediately due and payable. The exercise by grantor of a "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; not to remove or demolish any building or improvement thereon; not to commit or permit any waste of the property.
2. To complete or restore promptly any good and habitable condition any building or improvement which may be constructed, damaged or destroyed thereon, and pay when due all costs incurred hereafter.
3. To comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting the 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, as well as the cost of all lien searches made by lien 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 property 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 full value, with loss payable to the latter; all policies of insurance shall be delivered to the beneficiary as soon as issued; if the grantor shall fail for any reason to procure any such insurance and to deliver the policies to the beneficiary, the beneficiary may now or hereafter place on the buildings, the beneficiary may protect under any fire or other insurance policy may be applied by beneficiary upon the beneficiary's determination, or at option of beneficiary the entire amount so collected, shall not cure or waive any default or notice of default hereunder.
5. To keep the property free from construction liens and to pay all taxes, assessments and other charges that may be levied or assessed upon or against the property before any part of such taxes, assessments and 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 by direct payment or by providing beneficiary with funds with which to make such payment, 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 paragraph 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 hereon; 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, render all sums secured by this trust deed immediately due and payable and constitute a breach of this trust deed.
6. To pay all costs, fees and expenses of the trust, including the cost of title search 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. To appear and defend any action or proceeding purporting to affect the security rights or powers of beneficiary or trustee, including any suit for the foreclosure of this deed, title and the beneficiary's or trustee's attorney's fees; the amount of attorney's fees incurred in this paragraph in all cases shall be fixed 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.

It is mutually agreed that:

1. To the extent that any portion of all of the 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 moneys payable as compensation for such taking,

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.

WARNING: ORS 731-3 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

Penny K. Miller
P.O. Box 335
Clear Park, WA. 98640

Grantor

Donald and Sandra Pittmann
630 Monterey Rd. #167
San Jose, CA. 95138

Beneficiary

After Recording Return to Name, Address, Zip:

MOUNTAIN TITLE COMPANY

STATE OF OREGON,

County of

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/file/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 in such proceedings shall be paid to beneficiary in the trial and appellate courts, necessarily and in full secured hereby, and grantor agrees, at its own expense, to take such actions and execute such instruments as shall be necessary to carry out the intent of this deed.

9. At any time and from time to time upon the note for endorsement (in case of full recovery 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 hereon; (c) join in any subdivision of the property; (d) join in any reconveyance may be described as the "person or persons" in any matter of fact shall be conclusive proof of the truthfulness thereof. Trustee's fee shall be not less than \$5.

10. Upon default by grantor hereunder, trustee shall 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 and collect the rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of collection, to the payment of the indebtedness secured hereby, and in such order as trustee may determine.

11. The entering upon and taking possession of the property shall not constitute a waiver of any default or breach of any covenant or warranty by grantor hereunder, and trustee shall be entitled to the same remedies as if no such default or breach had occurred. In such an event the beneficiary may elect to foreclose this trust deed by advertisement or by 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 shall execute and cause to be recorded a written notice of default and election to sell the property to satisfy the obligation secured hereby, whereupon the trustee shall cause the sale of the property in the manner provided by law.

12. After the trustee has commenced foreclosure proceedings, the sale of the property or any other remedy, the trustee may, at its discretion, cure the default by tendering the performance of the obligation of the trust deed together with the costs and expenses of the foreclosure sale. (Otherwise the sale shall be held on the date the sale may be postponed as provided by law. The trustee shall deliver to the purchaser its deed in full and without any covenant or warranty, express or implied. The recitals in the deed shall be conclusive proof of the truthfulness thereof. Any person, excluding the trustee, but including the grantor and beneficiary may purchase at the sale.)

13. When trustee sells pursuant to the power of sale, including the compensation of the trustee, the trustee shall apply the proceeds of sale to payment of (1) the expenses of the sale, (2) the interest of the trustee in the trust deed as their interests may appear, (3) the interest of any successor in interest entitled to such surplus, and (4) the balance to the grantor or to any successor trustee named herein or to any successor trustee named or appointed hereunder. Each such appointment and substitution shall be recorded in the mortgage records of the county or counties in which the property is situated, shall be conclusive proof of the truthfulness thereof, and acknowledged, is made a public record as provided by law. Trustee shall deliver to the purchaser its deed in full and without any covenant or warranty, express or implied. The recitals in the deed shall be conclusive proof of the truthfulness thereof. Any person, excluding the trustee, but including the grantor and beneficiary may purchase at the sale.)

14. Trustee shall be obligated to notify any party hereto claiming an interest in the property or trust deed, or proceeding in which grantor, beneficiary or trustee shall be a party unless such notice is brought by trustee.

15. The grantor covenants and agrees to and will defend in the simple and fee of the real property and his or her heirs, assigns and assigns forever, the same against all persons whomsoever, and the grantor will warrant and forever defend the same against all persons whomsoever.

16. 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 an organization, or (even if grantor is a natural person) are for business or commercial purposes. This deed applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, term beneficiaries, 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.

17. In construing this trust deed, it is understood that the grantor, trustee and/or beneficiary may each be more than one person; that the context so requires, the singular shall be taken to mean and include the plural, and that generally all grammatical changes shall be made assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

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

all reasonable costs, expenses and attorney's fees necessarily paid or incurred by grantor and applied by trustee first upon any reasonable costs and expenses and attorney's fees, both 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 to carry out the intent of this deed.

10. Upon default by grantor hereunder, trustee shall 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 and collect the rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of collection, to the payment of the indebtedness secured hereby, and in such order as trustee may determine.

11. The entering upon and taking possession of the property shall not constitute a waiver of any default or breach of any covenant or warranty by grantor hereunder, and trustee shall be entitled to the same remedies as if no such default or breach had occurred. In such an event the beneficiary may elect to foreclose this trust deed by advertisement or by 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 shall execute and cause to be recorded a written notice of default and election to sell the property to satisfy the obligation secured hereby, whereupon the trustee shall cause the sale of the property in the manner provided by law.

12. After the trustee has commenced foreclosure proceedings, the sale of the property or any other remedy, the trustee may, at its discretion, cure the default by tendering the performance of the obligation of the trust deed together with the costs and expenses of the foreclosure sale. (Otherwise the sale shall be held on the date the sale may be postponed as provided by law. The trustee shall deliver to the purchaser its deed in full and without any covenant or warranty, express or implied. The recitals in the deed shall be conclusive proof of the truthfulness thereof. Any person, excluding the trustee, but including the grantor and beneficiary may purchase at the sale.)

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15. The grantor covenants and agrees to and will defend in the simple and fee of the real property and his or her heirs, assigns and assigns forever, the same against all persons whomsoever, and the grantor will warrant and forever defend the same against all persons whomsoever.

16. 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 an organization, or (even if grantor is a natural person) are for business or commercial purposes. This deed applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, term beneficiaries, 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.

17. In construing this trust deed, it is understood that the grantor, trustee and/or beneficiary may each be more than one person; that the context so requires, the singular shall be taken to mean and include the plural, and that generally all grammatical changes shall be made assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

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

Larry K. Miller
PENNY K. MILLER

* IMPORTANT NOTICE: Delete, by lining out, whichever warranty (a) or (b) is not applicable; if warranty (a) is applicable and the beneficiary is a credit card user, such word is defined in the Truth-in-Lending Act and Regulation Z, the beneficiary MUST comply with the Act and Regulation Z, the beneficiary MUST disclose: for this purpose use Stevens-Ness Form No. 1119, or equivalent. If compliance with the Act is not required, disregard this notice.

STATE OF OREGON, County of Multnomah, ss.

This instrument was acknowledged before me on January 17, 1995.

by *Larry K. Miller* and *Penny K. Miller* as joint tenants.

This instrument was acknowledged before me on January 17, 1995.

by *Larry K. Miller* and *Penny K. Miller* as joint tenants.

as *Larry K. Miller* and *Penny K. Miller* as joint tenants.

of *Larry K. Miller* and *Penny K. Miller* as joint tenants.

Notary Public for Oregon

My commission expires 11/1/97 Washington

REQUEST FOR FULL RECONVEYANCE (To be used only when obligation have been paid.)

TO

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 obligations of indebtedness secured by the trust deed (which are delivered to you herewith together with the trust deed) and to reconvey, with or without warranty, to the parties designated by the terms of the trust deed the estate now held by you under the same. Mail reconveyance documents to

DATED:

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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

"EXHIBIT A"

A LATE CHARGE OF \$75.00 WILL BE ASSESSED IF PAYMENT IS NOT RECEIVED WITHIN TWENTY DAYS OF ITS DUE DATE. THE SELLER IS REQUIRED TO NOTIFY THE BUYER IF THE PAYMENT IS NOT RECEIVED WITHIN TEN DAYS AFTER ITS DUE DATE, WHICH NOTICE SHALL BE A PREREQUISITE TO ASSESSMENT OF ANY LATE CHARGE. A CHARGE OF \$20.00 WILL ALSO BE ASSESSED FOR ANY NSF CHECKS FROM PURCHASER.

REMOVAL OF THIRTY MATURE TREES ON THE SUBJECT PROPERTY IS PROHIBITED UNTIL THE ENTIRE BALANCE OF THIS NOTE IS PAID IN FULL, EXCEPT TO THE EXTENT SUCH TREES MUST BE REMOVED FOR UTILITY OR HOME PLACEMENT, AND IN SUCH EVENT ANY NET PROCEEDS FROM SUCH TREES SHALL BE APPLIED TO THE BALANCE DUE ON THE NOTE.

ONLY ONE HOME WILL BE ON THIS SITE UNTIL IT IS PAID IN FULL AND PURCHASER SHALL HAVE THE RIGHT TO REMOVE SUCH HOME PRIOR TO THE COMPLETION OF ANY FORECLOSURE. ANY SUCH HOME SHALL NOT BECOME PART OF THE COLLATERAL SECURING THE REMAINING PURCHASE PRICE DUE.

STATE OF OREGON COUNTY OF KLAMATH ss

Filed for record at request of Mountain Title Co the 24th day
of Feb A.D. 19 85 at 11:44 o'clock A M., and duly recorded in Vol. M95
of Mortgages on Page 4184

Hernetha G. Letsch, County Clerk

FEE \$20.00

By G. J. Miller