

30397

AFTER RECORDING  
PLEASE RETURN TO:  
STATEWIDE MORTGAGE  
600 RIVERHILLS BUSINESS PARK  
SUITE 590  
BIRMINGHAM, AL 35218

96 Dec 24 11:57

Vol. 1796 Page 39913

McKAY & SCOT  
70301067

THIS TRUST DEED, made this 21 day of Nov 1996, between Scott D. McKay and Julie M. McKay as Grantor, whose address is 5548 Harlan Dr, City of Klamath Falls

First American Title Company, as Trustee, whose address is 200 SW

Market St, Portland, Or. 97201, City of Portland

State of Oregon, and Gibraltar Inc.

as Beneficiary, whose address is 33919 9th Ave S #1

City of Federal Way, State of Washington

### WITNESSETH:

That Grantor hereby irrevocably grants, bargain, sells and conveys to Trustee in trust, with power of sale, the following described property, situated in the County of Klamath, State of Oregon, and hereinafter referred to as the Property:

Lot 5 in Subdivision Homedale Tracts 49 and 50, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

\*\* husband and wife.

which Property is not used currently for agricultural, farm, or timber or grazing purposes, together with all buildings, fixtures and improvements thereon, and all water rights, rights of way, easements, rents, issues, profits, income, tenements, hereditaments, privileges and appurtenances thereunto belonging, now or hereafter used or enjoyed with the Property, or any part thereof (subject, however, to the right, power and authority herein given to and conferred on Beneficiary to collect and apply such rents, issues and profits):

For the purpose of securing (1) payment of the indebtedness and all other lawful charges evidenced by an FHA Title I Property Improvement Loan/Partial Installment Contract ("Contract") of even date herewith, under which the amount financed is FIFTEEN THOUSAND TWO HUNDRED TWENTY AND 90/100 DOLLARS (\$ 15,220.90), made by Grantor payable to the order of Beneficiary at all times, in the manner and with interest as therein set forth, and any extensions and/or renewals or modifications thereof; (2) the performance of each agreement of Grantor herein contained; and (3) the payment of all sums expended or advanced by Beneficiary under or pursuant to the terms hereof, together with interest thereon as herein provided.

To protect the security of this Trust Deed, Grantor covenants and agrees to the following:

1. To keep the 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 that may be constructed, damaged or destroyed thereon; to comply with all laws, regulations, covenants and restrictions affecting the Property; not to commit or permit waste there of, not to commit, suffer or permit any act on the Property in violation of law; to do all other acts which from the character or use of the Property may be reasonably necessary, the specific enumerations herein not excluding the general. If the Contract or any part thereof is being obtained for the purpose of financing improvements to the Property, Grantor further agrees (a) to commence construction of said improvements promptly and to pursue the same with reasonable diligence to completion, and (b) to allow Beneficiary to inspect the Property at all times during construction. However, Beneficiary shall have no duty to inspect or approve such improvements.

2. To provide and maintain insurance against loss by fire and other casualties in an amount and for such term as Beneficiary may require, and with loss payable clauses in favor of Beneficiary. In the event of loss or damage, Grantor shall give immediate notice to Beneficiary. Beneficiary may make proof of loss and settle and adjust all claims thereunder, applying the proceeds at its option to reduction of the amount due hereunder or to the restoration or repair of the property damaged. Payments of such loss shall be made directly to Beneficiary. In the event of the refusal or neglect of Grantor to provide insurance or to maintain the same or to renew the same in manner satisfactory to Beneficiary, then Beneficiary may itself procure and maintain such insurance and charge the cost thereof to Grantor under the provisions of paragraph 4 hereof.

3. To appear in and defend any action or proceeding affecting the security hereof, the title to the Property, 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 cost of evidence of title and attorneys' fees in a reasonable sum, incurred by Beneficiary or Trustee.

4. To pay at least ten (10) days before delinquency all taxes, assessments and payments under any other mortgage, deed of trust, real estate contract or encumbrance affecting the Property, to keep the Property free and clear of all other encumbrances, charges and liens impairing the security of this Trust Deed and to pay all costs, fees and expenses of this trust. Should Grantor fail to pay when due any taxes, assessments, insurance premiums, liens, encumbrances or other charges against the Property hereinabove described, Beneficiary may pay the same, and the amount so paid, with interest at the rate set forth in the Contract secured hereby, shall be added to and become a part of the debt secured by this Trust Deed.

5. To pay all costs, fees and expenses in connection with this Trust Deed, including the expense of the Trustee incurred in enforcing the obligation secured hereby and Trustee's fees and attorneys' fees incurred by Beneficiary.

6. Not to voluntarily transfer or agree to transfer the Property, any part thereof or any interest therein, or any transfer of a beneficial interest in Grantor (if Grantor is not a natural person), without first obtaining the prior written consent of Beneficiary, which consent Beneficiary may grant or withhold in its sole discretion. Any such transfer, if Beneficiary shall not so consent, shall constitute a breach of Grantor's agreement and a default under the terms hereof and the Contract. "Transfer" includes, without limitation, sales under a land sale contract, assumptions of this Trust Deed, and transfers by operation of law.

It is mutually agreed that:

7. In the event any portion of the Property is taken or damaged in an eminent domain proceeding, the entire amount of the award for such portion thereof as may be necessary to fully satisfy the obligation secured hereby, shall be paid to Beneficiary to be applied to said obligation.

8. The Trustee shall reconvey all or any part of the Property to the person entitled thereto on written request of the Grantor and Beneficiary, or upon satisfaction of the obligation secured and written request for reconveyance made by Beneficiary or the person entitled thereto.

9. Upon default by Grantor in the payment of any indebtedness secured hereby or in the performance of any agreement contained herein, all sums secured hereby may immediately become due and payable at the option of Beneficiary as provided in the Contract. In such event and upon written request of Beneficiary, Trustee or its authorized agent shall sell the Property, in accordance with the statutes of the State of Oregon, at public auction to the highest bidder. Any person except Trustee may bid at such Trustee's sale. Trustee shall apply the proceeds of the sale as provided by law.

10. Trustee shall deliver to the purchaser at the sale its deed, without warranty, which shall convey to the purchaser the Property. The Trustee's deed shall recite the facts showing that the sale was conducted in compliance with all the requirements of law and of this Trust Deed, which recital shall be prima facie evidence of such compliance and conclusive evidence thereof in favor of bona fide purchasers and encumbrancers for value.

11. The power of sale conferred by this Trust Deed and by the statutes of the State of Oregon is not an exclusive remedy; Beneficiary may cause this Trust Deed to be foreclosed as a mortgage.

12. The failure on the part of Beneficiary to promptly enforce any right thereunder shall not operate as a waiver of such right, nor shall the acceptance of payment of any sum secured hereby operate as a waiver of the right to require prompt payment of all other sums, and the waiver by Beneficiary of any default shall not constitute a waiver of any other or subsequent default.

13. If Grantor applies to Beneficiary for consent to transfer the Property in the manner described in paragraph 6 above, then Beneficiary can consider the prospective transferee as a new applicant for financing, taking into consideration all factors which it deems necessary to protect its security. As a condition of its consent to transfer, Beneficiary may, in its discretion, impose an assumption fee in accordance with a schedule then in effect, and may increase the interest rate of the remaining indebtedness to the prevailing rate for similar contracts at that time. Beneficiary may then increase the amount of each installment so that the Contract will be fully paid by the original maturity date. If Beneficiary consents to a transfer, that consent does not constitute a waiver of this section regarding subsequent transfers. Following a consent to transfer, Beneficiary may consent to modify other terms of this Trust Deed and the Contract.

14. For any reason permitted by law, Beneficiary may at any time appoint or cause to be appointed a successor Trustee who shall succeed to all the title, power, duties and authority of the Trustee named herein or any successor Trustee.

15. This Trust Deed shall apply to, inure to the benefit of and bind all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. All obligations of Grantor hereunder are joint and several. The term "Beneficiary" shall include the masculine and/or feminine and/or neuter, and the singular number, including any assignee, of the Contract. In this Trust Deed, whenever the text so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.

16. This Trust Deed shall be construed according to the laws of the State of Oregon.

17. The Grantor covenants and agrees to execute with Beneficiary that he is lawfully seized with the fee simple to the Property and has a valid unencumbered title, except as otherwise disclosed to the Beneficiary in writing, and that Grantor will warrant and forever defend said title against all persons whomsoever.

IN WITNESS WHEREOF, the Grantor has caused these presents to be executed this 21 day of November, 1996.

Witness

Witness

Witness

HTB: BENTON

Grantor

Grantor

Grantor

STATE OF OREGON } SS.  
County of Klamath

Personally appeared the above named Scott D. McKay and Julie M. McKay and acknowledged the foregoing instrument to be their voluntary act and deed.

My commission expires: Feb 09, 1999

Notary Public

STATE OF OREGON } SS.  
County of Klamath

For value received, Gibraltar Inc. assign and set over to Statewide Mortgage Company thereby.

This 17 day of Dec 1996

ASSIGNMENT

Gibraltar Inc.

STATE OF OREGON } SS.  
County of Klamath

On this day before me, appeared before me Terrence Pitzer individual (s) Terrence Pitzer known to me to be the

(delete inappropriate option) that executed the foregoing instrument and acknowledged such execution to be the free and voluntary act and deed of such person, and stated on oath that (s)he was authorized to execute it on behalf of the corporation/partnership.

Before me: Terrence Pitzer

My commission expires: Feb 28, 1999

Notary Public

**TRUST DEED**

Grantor

TO

Beneficiary

AFTER RECORDING RETURN TO:

STATE OF OREGON } SS.  
County of Klamath

I certify that the within instrument was received for record on the 24th day of December 1996, at 1:52 o'clock P.M., and recorded in book N96 on page 39913 Record of Mortgages

(DON'T USE THIS SPACE, RESERVED FOR RECORDING LABEL IN COUNTIES WHERE USED.)

Witness my hand and seal of County affixed:

Bernetha G. Letsch, Co. Clerk  
County Clerk Recorder

By Kathleen Brad Deputy

Fee: \$15.00