

32918

Form No. 881 - Oregon Trust Deed Series - Trust Deed.

Vol. 1197 Page 4666

After recording return to:

## TRUST DEED

HAROLD ELLIOT

P O BOX 413

LAPINE, OR 97739

K-50260

THIS TRUST DEED, made this 13TH day of FEBRUARY, 19 97, between  
MICHAEL L. FINAZZI, ELLEN L. FINAZZI and NIKKI K. FINAZZIas Grantor, FIRST AMERICAN TITLE INSURANCE CO., as Trustee, and  
HAROLD ELLIOT

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:LOT 30 IN BLOCK 3 OF LITTLE RIVER RANCH, PLAT 1204, ACCORDING TO THE OFFICIAL  
PLAT THEREOF ON FILE IN THE OFFICE OF THE COUNTY CLERK OF KLAMATH COUNTY,  
OREGON

TAX ACCOUNT NO: 2309-2B0-1000

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 said real  
estate.FOR THE PURPOSE OF SECURING PERFORMANCE of each agreement of grantor herein contained and payment of the sum of  
THIRTY-SIX THOUSAND EIGHT HUNDRED FIFTY DOLLARS AND NO/100Dollars, 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 FEBRUARY 14TH, 2032.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 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 or offices, as well as the cost  
of all lien searches made by filing officers or searching agencies as may  
be deemed desirable by the beneficiary.4. To provide and continuously maintain insurance on the build-  
ings 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 \$ \_\_\_\_\_  
written in 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 of 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 at option of beneficiary the entire amount so collected,  
or any part thereof, 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 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,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 hereinbefore 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 this 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 in and defend 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 evidence 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 fixed by the trial court and in the  
event of an appeal from any judgement 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:

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, if it so elects, to require that all or any portion of  
the monies payable as compensation for such taking, 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.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 656.505 to 698.581.



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 said 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) 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 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 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, time being of the essence with respect of such payment and/or performance, the beneficiary may declare all sums secured hereby immediately due and payable. In such an event the beneficiary at his election may 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 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 86.795.

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 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 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.

*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 EXCEPT TRUST DEED RECORDED AUGUST 16, 1995 IN VOLUME M95, PAGE 21767, KLAMATH COUNTY RECORDS, WHICH HEREIN BENEFICIARY REMAINS FULLY LIABLE FOR*

*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 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, 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 compliances with the Act is not required, disregard this notice.

X *Michael J. Finazzi*  
MICHAEL J. FINAZZI

X *Ellen L. Finazzi*  
ELLEN L. FINAZZI

X *Nikki K. Finazzi*  
NIKKI K. FINAZZI

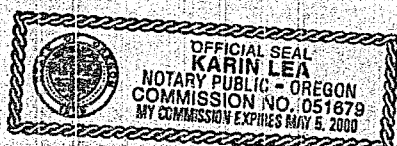


STATE OF OREGON  
County of DESCHUTES } ss.

BE IT REMEMBERED, That on this 13TH day of FEBRUARY, 19 97, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named MICHAEL J. FINAZZI, ELLEN L. FINAZZI, NIKKI K. FINAZZI

known to me to be the identical individual s described in and who executed the within instrument and acknowledged to me that THEY executed the same freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.



Karin Lea  
Notary Public for Oregon.  
My Commission expires 5/5/2000

REQUEST FOR FULL RECONVEYANCE  
To be used only when obligations have been paid.

TO: \_\_\_\_\_, Trustee

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: \_\_\_\_\_ 19 \_\_\_\_\_

Beneficiary

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

MICHAEL J. FINAZZI  
P O BOX 2082  
LAPINE, OR 97739

Grantor

HAROLD ELLIOT  
P O BOX 413  
LAPINE, OR 97739

Beneficiary

Space Reserved  
For  
Recorder's Use

Fee: \$20.00

STATE OF OREGON,  
County of Klamath } ss.

I certify that the within instrument was received for record on the 14th day of February, 19 97, at 2:39 o'clock P.M., and recorded in book/reel/volume No. M97 on page 4666 or as fee/file/instrument/microfilm/reception No. 32918 Record of Mortgages of said County.

Witness my hand and seal of County affixed.

Bernetha G. Letsch, Co. Clerk  
Name Title

By Kathleen Ross Deputy