

ACAPS 36008 38080

Account Number: 7763806  
ACAPS Number: 6006124317  
Date Printed: 4/7/1997  
Reconveyance Fee: \$55.00

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97 APR 15 AM 4:41

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**WHEN RECORDED MAIL TO:**

Seafirst Bank

Northwest Regional Loan Service Center

P.O. Box 3828

Seattle, WA 98124-3828

\*This is being re-recorded to add trustee

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**DEED OF TRUST**

THIS DEED OF TRUST is made this 10 day of April, 1997, BETWEEN John F. Feyer And Deborah A. Le Feyer as Grantor, whose address is P.O. Box 7952 and Klamath County Title Company as Trustee, and Bank of America NT&SA Doing Business As Seafirst Bank as Beneficiary, whose address is P.O. Box 34525, Seattle, WA 98124-1525.

1. **Granting Clause.** Grantor irrevocably grants, bargains, sells and conveys to Trustee in trust, with power of sale, all Grantor's estate, right, title, interest, claim and demand, now owned or hereafter acquired, in and to the following:

(a) The property in Klamath County, Oregon, described in Schedule "A" attached hereto and incorporated herein by this reference (the "Property" which term shall include all or any part of the Property, and improvements thereon and all the property described in this section 1).

(b) All land lying in streets and roads adjoining the Property, and all access rights and easements pertaining to the Property.

(c) All the lands, tenements, privileges, reversions, remainders, irrigation and water rights and stock, oil and gas rights, royalties, minerals and mineral rights, hereditaments and appurtenances belonging or in any way pertaining to the Property.

(d) All buildings, structures, improvements, fixtures and property now or hereafter attached to or used in the operation of the Property including, but not limited to, heating and incinerating apparatus and equipment, boilers, engines, motors, dynamos, generating equipment, computers, computer workstations and terminals, telephone and other communications systems, piping and plumbing fixtures, range, cooking apparatus and mechanical kitchen equipment, refrigerators, cooling, ventilation, sprinkling and vacuum cleaning systems, fire extinguishing apparatus, gas and electric fixtures, irrigation equipment, carpeting, underpadding, elevators, escalators, partitions, mirrors, built-in mirrors, window shades, blinds, screens, storm sash, awnings, furnishings of public spaces, halls and lobbies, and shrubbery and plants. All property mentioned in this subsection (d) shall be deemed part of the realty and not severable wholly or in part without material injury to the Property.

(e) All rents, issues and profits of the Property, all existing and future leases of the Property (including extensions, renewals and substitutions), all agreements for use and occupancy of the Property (all such leases and agreements whether written or oral are hereafter referred to as the "Leases"), and all guaranties of lessees' performance under the Leases, together with the immediate and continuing right to collect and receive all of the rents, income, receipts, revenues, issues, profits and other income of any nature now or hereafter due (including any income of any nature coming due during any redemption period) under the Leases or from or arising out of the Property including minimum rents, additional rents, percentage rents, parking or common area maintenance contributions, tax and insurance contributions, deficiency rents, liquidated damages following default in any Lease, all proceeds payable under any policy of insurance covering loss of rents from untenability caused by destruction or damage to the Property, all proceeds payable as a result of a lessee's exercise of an option to purchase the Property, all proceeds derived from the termination or rejection of any Lease in a bankruptcy or other insolvency proceeding, and all proceeds from any rights and claims of any kind which Grantor may have against any lessee under the Leases or any occupants of the Property (all of the above are hereafter collectively referred to as the "Rents"). This subsection (d) is subject to the right, power and authority given to the Beneficiary in the Loan Documents (as defined herein) to collect and apply the Rents.

(f) All of Grantor's rights further to encumber said Property for debt except by such encumbrance which by its actual terms and specifically expressed intent shall be and at all times remain subject and subordinate to (i) any and all tenancies in existence when such encumbrance becomes effective and (ii) any tenancies thereafter created; Grantor hereby (i) representing as a special inducement to Beneficiary to make this loan that as of the date hereof there are no encumbrances to secure debt junior to this Deed of Trust and (ii) covenanting that there are to be none as of the date when this Deed of Trust becomes of record, except in either case encumbrances having the prior written approval of Beneficiary, and all Grantor's rights to enter into any lease or lease agreement which would create a tenancy that is or may become subordinate in any respect to any mortgage or deed of trust other than this Deed of Trust.

2. **Security Agreement.** This Deed of Trust shall constitute a security agreement under the Uniform Commercial Code between Grantor as debtor and Beneficiary as secured party. Grantor grants a security interest to Beneficiary in any of the Property which is personal property and also grants a security interest in the following now owned or hereafter acquired by Grantor (the Property, as defined in section 1, and the property described in this section 2 are hereafter collectively referred to as the "Collateral"):

(a) All furniture, furnishings, appliances, machinery, vehicles, equipment and all other property of any kind now or hereafter located on the Property, used or intended to be used on the Property wherever actually located, or purchased with the proceeds of the Note (as defined herein), and all rights of Grantor as lessee of any property described in this section 2 and subsection 1(d) above.

(b) All compensation, awards, damages, rights of action and proceeds (including insurance proceeds and any interest on any of the foregoing) arising out of or relating to a taking or damaging of the Property by reason of any public or private improvement, condemnation proceeding (including change of grade), fire earthquake or other casualty, injury or decrease in the value of the Property.

(c) All returned premiums or other payments on any insurance policies pertaining to the Property and any refunds or rebates of taxes or assessments on the Property.

(d) All plans, specifications, contracts, agreements and purchase orders pertaining or incidental to the design or construction of any improvements on the Property, Grantor's rights under any payment, performance, or other bond in connection with construction of improvements on the Property, and all construction materials, supplies, and equipment delivered to the Property or intended to be used in connection with the construction of improvements on the Property wherever actually located.

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(e) All contracts and agreements pertaining to or affecting the property including management, operating and franchise agreements and all licenses.  
(f) All commitments or agreements, now or hereafter in existence, which will provide Grantor with proceeds to satisfy the Note and the right to receive the proceeds due under such commitments or agreements including refundable deposits and fees.

(g) All additions, accessions, replacements, substitutions, proceeds and products of the Property described in this section 2 and of any of the Property which is personal property.

When and if Grantor and Beneficiary shall respectively become the Debtor and Secured Party in any Uniform Commercial Code Financing Statement affecting property either referred to or described herein, or in any way connected with the use and enjoyment of these premises, this Deed of Trust shall be deemed a Security Agreement as defined in said Uniform Commercial Code and the remedies for any violation of the covenants, terms and conditions of the agreements herein contained shall be (i) as prescribed herein, or (ii) by general law, or (iii) as to each part of the security which is also reflected in said Financing Statement by the specific statutory consequences now or hereafter enacted and specified in the Uniform Commercial Code, all at Beneficiary's sole election. Grantor and Beneficiary agree that the filing of such a Financing Statement in the records normally having to do with personal property shall never be construed as in anywise derogating from or impairing this declaration and hereby stated intention of the parties hereto, that everything used in connection with the production of income from the Property that is the subject of this Deed of Trust and/or adapted for use therein and/or which is described or reflected in this Deed of Trust is, and at all times and for all purposes and in all proceedings both legal or equitable shall be, regarded as part of the real estate irrespective of whether (i) any such item is physically attached to the improvements, (ii) serial numbers are used for the better identification of certain equipment items capable of being this identified in a record contained herein or in any list filed with the Beneficiary, (iii) any such item is referred to or reflected in any such Financing Statement so filed at any time.

3. **Obligations Secured.** This Deed of Trust is given for the purpose of securing the following:

(a) Payment of the sum of one hundred thirty three thousand four hundred eighty one dollars and forty cents (\$ 133,481.40 ) 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 "Note" which term shall include all notes evidencing the indebtedness secured by this Deed of Trust including all renewals, modifications or extensions thereof);

(b) Payment of any further sums advanced or loaned by Beneficiary to Grantor, or any of its successors or assigns, if (1) the Note or other writing evidencing the future advance or loan specifically states that it is secured by this Deed of Trust or (2) the advance, including costs and expenses incurred by Beneficiary, is made pursuant to this Deed of Trust or any other documents executed by Grantor evidencing, securing or relating to the Note and/or the Collateral, whether secured prior to, contemporaneously with, or subsequent to this Deed of Trust (this Deed of Trust, the Note and such other documents, including any construction or other loan agreement, are hereafter collectively referred to as the "Loan Documents") together with interest thereon at the rate set forth in the Note unless otherwise specified in the Loan Documents or agreed to in writing;

(c) Performance of each agreement, term and condition set forth or incorporated by reference in the Loan Documents, including without limitation the loan agreement or commitment signed on \_\_\_\_\_, which are incorporated herein by reference, or contained herein.

GRANTOR REPRESENTS, WARRANTS, COVENANTS AND AGREES AS FOLLOWS:

4. **Performance of Obligations.** Grantor shall promptly and timely pay all sums due pursuant to the Loan Documents and strictly comply with all the terms and conditions of the Loan Documents.

5. **Warranty of Title.** Grantor has good and marketable title to an indefeasible fee simple estate in the Property and good marketable title to the personal property Collateral, subject to no liens, encumbrances, easements, assessments, security interest, claims or defects of any kind except those listed in Schedule "A". Beneficiary's title insurance policy or approved by Beneficiary in writing (the "Exceptions") and real estate taxes for the current year. The Exceptions and the real estate taxes are not delinquent or in default. Grantor has the right to convey the Property to the Trustee for the benefit of Beneficiary, and the right to grant a security interest in the personal property Collateral. Grantor will warrant and defend title to the Collateral and will defend the validity and priority of the lien of this Deed of Trust and the security interest granted herein against any claims and demands.

6. **Prohibited Liens.** Grantor shall not permit any governmental or statutory liens (including tax and mechanic's and materialmen's liens) to be filed against the Property except for real estate taxes and assessments not yet due and liens permitted by the Loan Documents or approved by Beneficiary in writing.

7. **Payment of Taxes and Other Encumbrances.** Grantor shall pay the real estate taxes and any assessments or ground rents at least 7 days prior to delinquency unless otherwise provided for in the reserve account. All other encumbrances, charges and liens affecting the Property, including mortgages and deeds of trust, whether prior to or subordinate to the lien of this Deed of Trust, shall be paid when due and shall not be in default. On request Grantor shall furnish evidence of payment of these items.

8. **Maintenance -- No Wastes.** Grantor shall protect and preserve the Collateral and maintain it in good condition and repair. Grantor shall do all acts and take all precautions which, from the character and use of the Collateral, are reasonable, proper or necessary. Grantor shall not commit or permit any waste of the Collateral.

9. **Alterations, Removal and Demolition.** Grantor shall not structurally alter, remove or demolish any building or improvement on the Property without Beneficiary's prior written consent. Grantor shall not remove any fixture or other item of property which is part of the collateral without Beneficiary's prior written consent unless the fixture or item of property is replaced by an article of equal suitability owned by Grantor free and clear of any lien or security interest.

10. **Completion, Repair and Restoration.** Grantor shall promptly complete or repair and restore in good workmanlike manner any building or improvement of the Property which may be constructed or damaged or destroyed and shall pay all costs incurred therefor. Prior to commencement of any construction Grantor shall submit the plans and specifications for Beneficiary's approval and furnish evidence of sufficient funds to complete the work.

11. **Compliance with Laws.** Grantor shall comply with all laws, ordinances, regulations, covenants, conditions, and restrictions affecting the Property and shall not commit or permit any act upon or concerning the Property in violation of any such laws, ordinances, regulations, covenants, conditions, and restrictions.

12. **Impairment of Collateral.** Grantor shall not, without Beneficiary's prior written consent, change the general nature of the occupancy of the property, initiate, acquire or permit any change in any public or private restrictions (including a zoning reclassification) limiting the uses which may be made of the Property, or take or permit any action which would impair the collateral or Beneficiary's lien or security interest in the Collateral.

13. **Inspection of Property.** Beneficiary and/or its representative may inspect the Property at reasonable times after reasonable notice.

14. **Grantor's Defenses of Collateral.** Grantor shall appear in and defend any action or proceeding which may affect the Collateral or the rights or powers of Beneficiary or Trustee.

15. **Beneficiary's Right to Protect Collateral.** Beneficiary may commence, appear in, and defend any action or proceeding which may affect the Collateral or the rights or powers of Beneficiary or Trustee. Beneficiary may pay, purchase, contest or compromise any encumbrance, charge or lien not listed as an Exception which in its judgment appears to be prior or superior to the lien of this Deed of Trust. If Grantor fails to make any payment or do any act required under the Loan Documents, Beneficiary, without any obligation to do so, without notice to or demand upon Grantor and without releasing Grantor from any obligations under the Loan Documents, may make the payment or cause the act to be performed in such manner and to such extent as Beneficiary may deem necessary to protect the Collateral. Beneficiary is authorized to enter upon the property for such purposes. In exercising any of these powers Beneficiary may incur such expenses, in its absolute discretion, as it deems necessary.



16. **Repayment of Beneficiary's Expenditures.** Grantor shall pay within 10 days after written notice from Beneficiary all sums expended by Beneficiary and all costs and expenses incurred by Beneficiary in taking any actions pursuant to the Loan Documents including attorneys' fees, accountants' fees, appraisal and inspection fees, and the costs for title reports. Expenditures by Beneficiary shall bear interest from the date of such advance or expenditure at the rate of four percent (4.0%) per annum above the note rate in effect at that time but not less than twelve (12.0%) per annum until paid, shall constitute advances made under this Deed of Trust and shall be secured by and have the same priority as the lien of this Deed of Trust. If Grantor fails to pay any such expenditures, costs and expenses and interest thereon, Beneficiary may, at its option, without foreclosing the lien of this Deed of Trust, commence an independent action against Grantor for the recovery of the expenditures and/or advance any undisbursed loan proceeds to pay the expenditures.

17. **Sale or Transfer.** If the Property or any part thereof is sold, conveyed, transferred, encumbered, or full possessory rights therein transferred, or if a controlling interest in Grantor (if a corporation) or a general partnership interest in Grantor (if a partnership) is sold, conveyed, transferred or encumbered, without the prior written consent of the Beneficiary, then Beneficiary may declare all sums secured by the Deed of Trust immediately due and payable. This provision shall to each and every sale, transfer, conveyance or encumbrance regardless of whether or not Beneficiary has consented or waived its rights, whether by action or non-action, in connection with any previous sale, transfer, conveyance or encumbrance, whether one or more.

18. **Insurance.**

(a) Grantor shall maintain insurance on the Property with premiums prepaid providing replacement cost coverage and insuring against loss by fire and such other risks covered by extended coverage insurance, flood, and such other perils and risks, including earthquakes, loss of rents and business interruption as may be required by the Loan Documents. Grantor shall also maintain comprehensive general public liability insurance. All insurance shall be with companies satisfactory to Beneficiary and in such amounts as required by Beneficiary with lender's loss payable clauses in favor of and in form satisfactory to Beneficiary. At least 30 days prior to the expiration of the term of any insurance policy, Grantor shall furnish Beneficiary with written evidence of renewal or issuance of a satisfactory replacement policy. If requested Grantor shall deliver copies of all policies to Beneficiary.

(b) In the event of foreclosure of this Deed of Trust all interest of Grantor in any insurance policies pertaining to the collateral and in any claims against the policies and in any proceeds due under the policies shall pass to Beneficiary.

(c) If under the terms of any Lease (as defined herein) the lessee is required to maintain insurance of the type required by the Loan Documents and if the insurance is maintained for the benefit of both the lessor and Beneficiary, Beneficiary will accept such policies provided all of the requirements of Beneficiary and the Loan Documents are met. In the event the lessee fails to maintain such insurance, Grantor shall promptly obtain such policies as are required by the Loan Documents.

19. **Condemnation and Insurance Proceeds.** Grantor shall give immediate notice to Beneficiary of any condemnation proceeding (including change of grade), or loss or damage to the Collateral or any right therein. Grantor authorizes Beneficiary, at Beneficiary's option, to make a claim for and to enter into a compromise or settlement with respect to any proceeds payable as a result of condemnation, loss or damage. All proceeds payable as a result of condemnation, loss or damage shall be paid to Beneficiary. Beneficiary shall, at its option, after deducting its expenses including attorneys' fees,

(a) Apply all or part of the proceeds against the sums owed under the Loan Documents including the Note whether or not the sums are actually due or the collateral for the Note is impaired and without affecting the due dates or amount of payments thereafter due under the Note, or

(b) Release all or any part of the proceeds to Grantor, or

(c) Permit all or any part of the proceeds to be used for repair and restoration of the Property on such conditions as Beneficiary may impose including evidence of sufficient funds to complete the work, approval of the plans and specifications and periodic disbursement of the proceeds during the course of repair and restoration.

20. **Leases.** Grantor shall fully comply with all of the terms, conditions and provisions of the Leases so that the same shall not become in default and do all that is needful to preserve all said Leases in force. With respect to any Lease of the whole or any part of the Property involving an initial term of three years or more, Grantor shall not, without the prior written consent of Beneficiary, (a) permit assignment or subletting of all or part of the lessee's rights under the Lease unless the right to assign or sublet is expressly reserved by the lessee under the Lease, (b) modify or amend the Lease for a lesser rental or term, and (c) accept surrender of the Lease or terminate the Lease except in accordance with the terms of the Lease providing for termination in the event of a default. Any proceeds or damages resulting from a lessee's default under any such Lease, at Beneficiary's option, shall be paid to Beneficiary and applied against sums owed under the Loan Documents even though such sums may not be due and payable. Except for real estate taxes and assessments, Grantor shall not permit any lien to be created against the Property which may be or may become prior to any Lease. If the Property is partially condemned or suffers a casualty, Grantor shall promptly repair and restore the Property in order to comply with the Leases.

21. **Assignment of Rents and Lease-Grantor's Right to Collect.** Grantor hereby absolutely and irrevocably assigns to Beneficiary all Grantor's interest in the Rents and Leases. This assignment shall be subject to the terms and conditions of any separate assignment of leases and/or rents, whenever executed, in favor of Beneficiary and covering the Property. Unless otherwise provided in any separate assignment of leases and/or rents, and so long as Grantor is not in default under the Loan Documents, Grantor may collect the Rents as they become due. Grantor shall use the Rents to pay normal operating expenses for the Property and sums due and payments required under the Loan Documents. No Rents shall be collected more than one month in advance of the due date. Grantor warrants that it has made no prior assignment of the Rents or Leases and will make no subsequent assignment without the prior written consent of Beneficiary. Grantor's right to collect the Rents shall not constitute Beneficiary's consent to the use of cash collateral in any bankruptcy proceedings.

22. **Beneficiary's Right to Collect Rents.** If Grantor is in default under the Loan Documents, without notice to Grantor, Beneficiary or its agents, or a court appointed receiver, may collect the Rents. In doing so, Beneficiary may (a) evict lessees for nonpayment of rent, (b) terminate in any lawful manner any tenancy or occupancy, (c) lease the Property in the name of the then owner on such terms as it may deem best and (d) institute proceeding against any lessee for past due rent. The Rents received shall be applied to payment of the costs and expenses of collecting the Rents, including a reasonable fee to Beneficiary, a receiver or an agent, operating expenses for the Property and any sums due or payments required under the Loan Documents, in such order as Beneficiary may determine. Any excess shall be paid to Grantor, however, Beneficiary may withhold from any excess a reasonable amount to pay sums anticipated to become due which exceed the anticipated future Rents. Beneficiary's failure to collect or discontinuing collection at any time shall not in any manner affect the subsequent enforcement by Beneficiary of its rights to collect the Rents. The collection of the Rents shall not cure or waive any default under the Loan Documents. Beneficiary or a receiver shall have no obligation to perform any of Grantor's obligations under the Leases. In exercising its rights under this section Beneficiary shall be liable only for the proper application of and accounting for the Rents collected by Beneficiary or its agents. Any Rents paid to Beneficiary or a receiver shall be credited against the amount due from the lessee under the Lease. In the event any lessee under the Lease becomes the subject of any proceeding under the Bankruptcy Code or any other federal, state or local statute which provides for the possible termination or rejection of the Leases assigned hereby, Grantor covenants and agrees that in the event any of the Leases are so rejected, no damages settlement shall be made without the prior written consent of Beneficiary; any check in payment of damages for rejection or termination of any such Lease will be made payable both to the Grantor and Beneficiary; and Grantor hereby assigns any such payment to Beneficiary and further covenants and agrees that upon request of Beneficiary, it will duly endorse to the order of Beneficiary any such check, the Proceeds of which will be applied to any portion of the indebtedness secured hereunder in such manner as Beneficiary may elect.

23. **Additional Security Documents.** Grantor shall within 15 days after request by Beneficiary execute and deliver any financing statement, renewal, affidavit, certificate, continuation statement, or other document Beneficiary may request in order to perfect, preserve, continue, extend, or maintain security interests or liens previously granted and the priority of the security interests or liens. Grantor shall pay all costs and expenses incurred by Beneficiary in connection with the preparation, execution, recording, filing and refiling of any such document.

24. **Financing Statement.** This Deed of trust is given to secure an obligation incurred for the construction of an improvement on the Property, including the acquisition of the Property or to secure an obligation incurred to refinance an obligation incurred for the construction of an improvement of the Property, including the acquisition of the Property. This Deed of Trust shall also serve as a financing statement filed for record in the real estate records as a fixture filing pursuant to the Uniform Commercial Code.

25. **Default Remedies.** Grantor's failure to comply with any term or condition of the Loan Documents, including payments due on the Note, shall constitute a default. In the event of a default Beneficiary may declare all amounts owed under the Loan Documents immediately due and payable without demand or notice and/or exercise its rights and remedies under the Loan Documents and applicable law including foreclosure of this Deed of Trust judicially or non-judicially by the Trustee pursuant to the power of sale. Beneficiary's exercise of any of its rights and remedies shall not constitute a waiver or cure of a default. Beneficiary's failure to enforce any default shall not constitute a waiver of the default or any subsequent default. In the event the Loan Documents are referred to an attorney for enforcement of Beneficiary's rights or remedies, whether or not suit is filed or any proceedings are commenced, Grantor shall pay all Beneficiary's costs and expenses including Trustee's and attorneys' fees (including attorneys' fees for any appeal, bankruptcy proceeding or any other proceeding), accountant's fees, appraisal and inspection fees and cost of a title report.
26. **Cumulative Remedies.** All Beneficiary's and Trustee's rights and remedies specified in the Loan Documents are cumulative, not mutually exclusive and not in substitution for any rights or remedies available in law or equity. In order to obtain performance of Grantor's obligations under the Loan Documents, without waiving its rights in the Collateral, Beneficiary may proceed against Grantor or may proceed against any other security or guaranty for the Note, in such order and manner as Beneficiary may elect. The commencement of proceedings to enforce a particular remedy shall not preclude the discontinuance of the proceedings and the commencement of proceedings to enforce a different remedy.
27. **Sale of Property After Default.** The Collateral may be sold separately or as a whole, at the option of Beneficiary. In the event of a Trustee's sale of all the collateral, Beneficiary hereby assigns its security interest in the personal property Collateral to the Trustee. Beneficiary may also realize on the personal property Collateral in accordance with the remedies available under the Uniform Commercial Code or at law. In the event of a foreclosure sale, Grantor and the holders of any subordinate liens or security interests waive any equitable, statutory or other right they may have to require marshaling of assets or foreclosure in the inverse order of alienation.
28. **Appointment of Receiver.** In the event of a default, Beneficiary shall be entitled, without notice, without bond, and without regard to the adequacy of the Collateral, to the appointment of a receiver for the Collateral. The receiver shall have, in addition to all the rights and powers customarily given to and exercised by a receiver, all the rights and powers granted to Beneficiary by the Loan Documents.
29. **Foreclosure of Lessee's Rights - Subordination.** Beneficiary shall have the right, at its option, to foreclose this Deed of Trust subject to the rights of any lessees of the Property. Beneficiary's failure to foreclose against any lessee shall not be asserted as a claim against Beneficiary or as a defense against any claim by Beneficiary in any action or proceeding. Beneficiary at any time may subordinate this Deed of Trust to any or all of the Leases except the Beneficiary shall retain its priority claim to any condemnation or insurance proceeds.
30. **Reconveyance After Payment.** Upon written request of Beneficiary stating that all obligations secured by this Deed of Trust have been paid, Trustee shall reconvey, without warranty, the Property then subject to the lien of the Deed of Trust. The recitals in any reconveyance of any matters of fact shall be conclusive proof of the truthfulness thereof. The grantee in the reconveyance may be described as "the person or persons legally entitled thereto". Grantor shall pay any Trustee's fees.
31. **Release of Parties or Collateral.** Without affecting the obligations of any party due under the Loan Documents and without affecting the lien of this Deed of Trust and Beneficiary's security interest in the Collateral, Beneficiary and/or Trustee may, without notice (a) release all or any Grantor and/or any other party now or hereafter liable for any sums due under the Loan Documents (including guarantors), (b) release all or any part of the Collateral, (c) subordinate the lien of this Deed of Trust or Beneficiary's security interest in the Collateral, (d) take and/or release any other security or guarantees for sums due under the Loan Documents, (e) grant an extension of time of accelerate the time for performance of the obligations owed under the Loan Documents, (f) modify, waive, forbear, delay or fail to enforce any obligations owed under the Loan Documents, (g) sell or otherwise realize on any other security or guaranty prior to, contemporaneously with or subsequent to a sale of all or any part of the collateral, (h) make advances pursuant to the Loan Documents including advances in excess of the Note amount, (i) consent to the making of any map or plat of the Property, and (j) join in the grant of any easement on the Property. Any subordinate lienholder shall be subject to all such releases, extensions or modifications without notice to or consent from the subordinate lienholder. Grantor shall pay any Trustee's, attorneys', title insurance or recording fees in connection with release of Collateral, the making of a map or plat or the grant of an easement.
32. **Non-Waiver of Terms and Conditions.** Time is of the essence with respect to performance of obligations due under the Loan Documents. Beneficiary's failure to require prompt enforcement of any required obligation shall not constitute a waiver of the obligation due or any subsequent required performance of the obligation. No term or condition of the Loan Documents may be waived, modified or amended except by a written agreement signed by Grantor and Beneficiary. Any waiver of any term or condition of the Loan Documents shall apply only to the time and occasion specified in the waiver and shall not constitute a waiver of the term or condition at any subsequent time or occasion.
33. **Waivers by Grantor.** Without affecting any of Grantor's obligations under the Loan Documents, Grantor waives the following:
- (a) Notice of a default by any Grantor or any other party liable for sums due under the Loan Documents.
  - (b) Any right to require Beneficiary to proceed against any specific party liable for sums due under the Loan Documents or to proceed or exhaust any specific security for sums due under the Loan Documents.
  - (c) Diligence, demand for performance, notice of nonperformance, presentment, protest and notice of dishonor and notice of new or additional indebtedness of any Grantor or any other party liable for sums due under the Loan Documents to Beneficiary.
  - (d) Any defense arising out of Beneficiary entering into financing or other arrangements with any Grantor or any party liable for sums due under the Loan Documents not relating to the Property and any action taken by Beneficiary in connection with any such financing or other arrangements or any pending financing or other arrangements not related to the Property.
  - (e) Any defense arising out of the absence, impairment, or loss of any or all rights of recourse, reimbursement, contribution or subrogation or any other rights or remedies of Beneficiary against any Grantor or any other party liable for sums due under the Loan Documents or any Collateral.
  - (f) Any obligation of Beneficiary to see to the proper use and application of any proceeds advanced pursuant to the Loan Documents.
34. **Right of Subrogation.** Beneficiary is subrogated to the rights, whether legal or equitable, of all beneficiaries, mortgagees, lienholders and owner directly or indirectly paid off or satisfied in whole or in part by any proceeds advanced by Beneficiary under the Loan Documents, regardless of whether these parties assigned or released or record their rights or liens upon payment.
35. **Use of Property.** The Property is not used principally, or at all, for agricultural or farming purposes.
36. **Joint and Several Liability.** If there is more than one Grantor of this Deed of Trust, their obligations shall be joint and several.
37. **Statement of Amount Owed.** Grantor upon request by Beneficiary will furnish a written statement duly acknowledged of the amount due under the Loan Documents and whether any offsets or defenses exist against the amount due.
38. **Maximum Interest Rate.** If any payment made or to be made under the Loan Documents shall constitute a violation of the applicable usury laws, then the payment made or to be made shall be reduced so that in no event shall any obligor pay or Beneficiary receive an amount in excess of the maximum amount permitted by the applicable usury laws.
39. **Payment of New Taxes.** If any federal, state or local law is passed subsequent to the date of this Deed of Trust which requires Beneficiary to pay any tax because of this Deed of Trust or the sums due under the Loan Documents, then Grantor shall pay to Beneficiary on demand any such taxes if it is lawful for Grantor to pay them. If it is not lawful for Grantor to pay such taxes, then at its option Beneficiary may declare a default under the Loan Documents.



40. **Repairs During Redemption.** In the event of a judicial foreclosure, the purchaser during any redemption period may make such repairs and alterations to the Property as may be reasonably necessary for the proper operation, care, preservation, protection and insuring of the property. Any sums so paid, together with interest from the date of the expenditure at the rate provided in the judgment, shall be added to the amount required to be paid for redemption of the Property.

41. **Insolvency Proceedings.** Grantor or any party on the Note (including guarantors) shall not make any assignment for the benefit of creditors and shall not permit the institution of any proceedings under any federal or state statutes pertaining to bankruptcy, insolvency, arrangement, dissolution, liquidation or receivership, whether or not an order for relief is entered.

42. **Substitution of Trustee.** Beneficiary may at any time discharge the Trustee and appoint a successor Trustee who shall have all of the powers of the original Trustee.

43. If a Grantor executed this Deed of Trust but not the Note it secures, such Grantor shall be deemed a "Subordinating Grantor".

Each Subordinating Grantor hereby (i) waives presentment, demand, protest and notice of acceptance, demand, protest and nonpayment; (ii) waives any and all lack of diligence or delays in collection or enforcement, the right to plead laches and any and all statutes of limitations as a defense to any demand, or any other indulgence or forbearance whatsoever with respect to any and all obligations secured by this Deed of Trust; (iii) waives notice of acceptance hereof by Beneficiary or Trustee under this Deed of Trust; (iv) waives notice of any and all advances made under the Note secured by this Deed of Trust; (v) agrees that other security for the obligations secured by this Deed of Trust may be released or subordinated by Beneficiary including without limitation all or any part of the Property, without affecting the right of Beneficiary hereunder, and hereby waives notice thereof; and (vi) in any action or proceeding to recover any sum secured by this Deed of Trust, waives any defense or right that resort must first be had to other security or to any other person.

44. **Maturity Date.** Final payment of principal and interest hereunder, if not sooner paid, shall be due and payable on 4/15/2032 which shall be the date of maturity of this Deed of Trust.

45. **Notice.** Any notice given by Grantor, Trustee or Beneficiary shall be in writing and shall be effective (1) on personal delivery to the party receiving the notice or (2) on the second day after deposit in the United States mail, postage prepaid with return receipt requested, addressed to the party at the address set forth above, or with respect to the Grantor, to the address at which Beneficiary customarily or last communicated with Grantor.

46. **Successors and Assigns.** This Deed of Trust applies to, inures to the benefit of, and binds all parties hereto and their successors and assigns. The Terms "Grantor", "Trustee" and "Beneficiary" include their successors and assigns.

47. **Controlling Documents.** In the event of a conflict or inconsistency between the terms and conditions of this Deed of Trust and the terms and conditions of any other of the Loan Documents (except for any separate assignment of rents and/or leases and any construction loan agreements which shall prevail over this Deed of Trust), the terms and conditions of this Deed of Trust shall prevail.

48. **Invalidity of Terms and Conditions.** If any term or condition of the Deed of Trust is found to be invalid, the invalidity shall not affect any other term or condition of the Deed of Trust and the Deed of Trust shall be construed as if not containing the invalid term or condition.

49. **Rules of Construction.** This Deed of Trust shall be construed so that, whenever applicable, the use of the singular shall include the plural, the use of the plural shall include the singular, and the use of any gender shall be applicable to all genders and shall include corporation, partnerships and limited partnerships.

50. **Section Headings.** The headings to the various sections have been inserted for convenience of reference only and shall not be used to construe this Deed of Trust.

51. **Applicable Law.** The right, duties, liabilities and obligations of the parties under the Note shall be construed and governed by and under the laws of Washington. The right, duties, liabilities, and obligations of the parties with respect to the premises shall be governed by the laws of the state where the premises are located. It is the intent of the parties that, to the fullest extent allowable by law, the law of the State of Washington shall apply to the transaction of which this Deed of Trust is a part.

John F. LeFever  
John F. LeFever

Deborah A. LeFever  
Deborah A. LeFever

N/A

N/A

#### SCHEDULE "A"

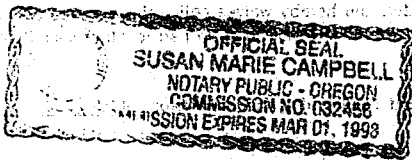
See Attached Legal Description. It is Covenanted And Agreed That Said Real Property Includes As An Improvement Thereon And Thereon That Contains 1995 Klt Goldenstate 60x28 Vin:1288ab; As A Part Thereof; It Shall Not Be Seized Nor Removed Therefrom.

12666 11138  
STATE OF Oregon  
COUNTY OF Klamath

On this 10th day of April, A.D., 19 97, before me, the undersigned, a Notary Public in and for the State of Oregon, duly commissioned and sworn personally appeared John F. Letcaver and Deborah A. LeFleur

to me personally known (or proven on the basis of satisfactory evidence) to the individual, or individuals described in and who executed the within and foregoing instrument, and acknowledged to me that the y signed and sealed the said instrument as their free and voluntary act and deed for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.



Susan Marie Campbell  
Notary Public in and for the State of Oregon  
residing at Klamath County  
my commission expires 3-1-98

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 19 \_\_\_\_\_, before me, the undersigned, a Notary Public in and for the State of \_\_\_\_\_, duly commissioned and sworn personally appeared \_\_\_\_\_

to me personally known (or proven on the basis of satisfactory evidence) to be the \_\_\_\_\_ President and \_\_\_\_\_ Secretary, respectively, of the corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath each stated that he was authorized to execute the said instrument and that the seal affixed is the corporate seal of said corporation.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

Notary Public in and for the State of \_\_\_\_\_  
residing at \_\_\_\_\_  
my commission expires \_\_\_\_\_

TO: TRUSTEE.

The undersigned is the legal owner and holder of the Note and all other indebtedness secured by the within Deed of Trust. Said Note, together with all other indebtedness secured by said Deed of Trust, has been fully paid and satisfied; and you are hereby requested and directed, on payment to you of any sums owing to you under the terms of said Deed of Trust, to cancel said Note above mentioned and all other evidence of indebtedness secured by said Deed of Trust delivered to you herewith, together with said Deed of Trust, and to reconvey, without warranty, to the parties designated by the terms of said Deed of Trust, all the estate now held by you thereunder.

Dated \_\_\_\_\_, 19 \_\_\_\_\_

Multi reconveyance to \_\_\_\_\_

12667 11139

**EXHIBIT "A"**  
**DESCRIPTION OF PROPERTY**

**PARCEL 1:**

Lots 9 through 14 inclusive of vacated Block 21 of Worden Township, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

EXCEPTION THEREFROM the E½ of Lots 6 through 13 inclusive, Block 24 and the E½ of Lots 9 through 16 inclusive, Block 25, together with vacated streets and alleys which inurred thereto.

**PARCEL 2:**

Lots 1 through 7 inclusive and Lot 16 of vacated Block 21 and vacated Blocks 22, 23, 24, 25 and Lots 1 through 8 inclusive and the W½ of Lots 9 through 16 inclusive of Block 26 of Worden Townsite, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

EXCEPTING THEREFROM the E½ of Lots 6 through 13 inclusive, Block 24 and the E½ of Lots 9 through 16 inclusive, Block 25, together with vacated street and alleys which inurred thereto.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County Title Co. \_\_\_\_\_ day  
 of April A.D., 1997 at 10:41 o'clock A M., and duly recorded in Vol. \_\_\_\_\_  
 of Mortgages on Page 11134

FEE \$40.00

**INDEXED**  
D / L /

by Kathleen Rose

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County Title \_\_\_\_\_ the 25th day  
 of April A.D., 1997 at 11:09 o'clock A M., and duly recorded in Vol. M97  
 of Mortgages on Page 12661

FEE \$35.00 Re-record

by Kathleen Rose

Bernetha G. Lisch, County Clerk