

75611

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RECORDATION REQUESTED BY:

99 MAR -4 AM 08

WHEN RECORDED MAIL TO:

FirstMerit, NA

111 Glamorgan Street

Alliance, OH 44601

SEND TAX NOTICES TO:

K-53541

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DEED OF TRUST LINE OF CREDIT INSTRUMENT

Maximum Amount of Loan Indebtedness
Which May Be Outstanding At Any One Time

\$ 99057.00

This Line of Credit Deed of Trust ("Deed of Trust") is dated March 2, 1999,
among GARCIA, MANUEL M. - Married and GARCIA, ROSARIO A. - Married
_____, of _____
1827 VAN NESS AVENUE, KLAMATH FALLS, OR, 97601 (hereinafter the "Grantor"),
FIRSTMERIT BANK, of _____
111 GLAMORGAN ST., ALLIANCE, OH, 446010060 (hereinafter the "Beneficiary")
and VALERIE T. AUERBACH, of _____
121 SW MORRISON STREET, SUITE 600, PORTLAND, OR, 97204 (hereinafter the "Trustee"), with reference to
the following facts:

RECITALS

Whereas, Grantor has executed and delivered to Beneficiary that certain promissory note dated _____
March 2, 1999, in the principal sum of _____
ninety-nine thousand and sixty-seven and 00/100
Dollars (\$ 99057.00), said promissory note if not sooner paid being due and payable on _____
September 2, 2029 (hereinafter the "Note"); and,

Whereas, if so indicated in Section 29 hereof, the Note is also secured by the Security Agreement (as defined in
Section 29 hereof); and,

Deed of Trust
Land and Home/OR

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Whereas, if so indicated in Section 28 hereof, the Note, this Deed of Trust, and the Security Agreement are delivered to Beneficiary pursuant to the terms of the Agreement (as defined in Section 28 hereof); and,

Whereas, Grantor is obligated pursuant to the terms of the Note and the Agreement to secure to Beneficiary the full performance by Grantor of the terms and conditions imposed upon Grantor pursuant to the Note and the Agreement.

Therefore This Deed of Trust Secures To Beneficiary:

- (a) Grantor's repayment to Beneficiary of the total sum of ninety-nine thousand and sixty-seven and 00/100 Dollars (\$ 99067.00), as evidenced by the Note with all interest and late charges accrued thereon, and any renewals, extensions, amendments or modifications thereof;
- (b) All future advances from Beneficiary to Grantor pursuant to the Note and the Agreement;
- (c) All interest and late charges due Beneficiary from Grantor pursuant to the Note and the Agreement;
- (d) Grantor's payment to Beneficiary of all sums with interest accrued thereon, incurred by Beneficiary in the protection, sale, or maintenance of the Trust Property (as hereinafter defined) or advanced by Beneficiary pursuant to the terms of the Security Agreement;
- (e) Performance by Grantor of the covenants and agreements of Grantor under the Security Agreement, the Note, this Deed of Trust, and the Agreement and any and all renewals, extensions, amendments, or modifications of any of the foregoing; and,
- (f) Any expense incurred in the enforcement of the Security Agreement, the Note, this Deed of Trust, or the Agreement, to the extent permitted by applicable law.

The above items (a) through (f) sometimes collectively referred to herein as "Obligations" or the "Obligations".

Now Therefore, in consideration of Beneficiary's extension of a loan in the total principal sum of ninety-nine thousand and sixty-seven and 00/100 Dollars (\$ 99067.00), to Grantor and to secure Grantor's repayment of said sum and performance of the Obligations as evidenced by this Deed of Trust, the Note and the Agreement, Grantor does hereby give, grant, bargain, sell and convey unto Trustee for the benefit of Beneficiary with mortgage covenants all of Grantor's right, title and interest in and to the real property situated in KLAMATH County, State of Oregon, and more fully described in Exhibit A attached hereto and incorporated herein by reference.

Together With any and all buildings and improvements erected or hereinafter erected thereon.

Together With any and all fixtures, and all machinery, equipment, and other articles of property, whether real estate or not, now or at any time hereafter attached to or situated in or upon, and used or useful in the operation of, the Trust Property or the buildings and improvements erected or hereafter erected thereupon, specifically including the manufactured or modular home more fully described in Exhibit B attached hereto (the "Home") which is or will be affixed to the real property described in Exhibit A attached hereto. The Grantor and Beneficiary intend this Deed of Trust to be effective as a financing statement filed as a fixture filing as permitted by Oregon Revised Statutes Section 79.4020(6).

Together With all building material, fixtures, machinery, and equipment delivered on site to the Trust Property during the course of construction of any buildings or improvements or thereafter, if intended for addition thereto, or incorporation therein or thereon, or if suitable for any such use.

Together With all and singular the tenements, hereditaments, and appurtenances belonging to the Trust Property or any part thereof, hereby granted in trust or intended so to be, or in anyway appertaining thereto (including but not limited to all income, rents, and profits arising therefrom) all streets, alleys, passages, ways, rights of way, easements, watercourses, building and joining permits, all other rights, liberties, and privileges of whatsoever kind or character, including all water, water rights and ditch rights (including stock in utilities with ditch or irrigation rights) and including without limitation all rights to minerals, oil, gas, geothermal and similar matters, the reversions and remainders, and all the estate, right, title, interest, property, possession, claim and demand whatsoever, as well at law as in equity, of Grantor, in and to all of the foregoing or any or every part thereof.

Said Land, buildings, improvements, fixtures, manufactured home or modular home, machinery, equipment, tenements, and other property interests being hereinafter collectively called the "Trust Property".

To Have and To Hold the Trust Property unto the Beneficiary, its successors and assigns forever. Grantor also presently assigns to Beneficiary all of Grantor's right, title, and interest in and to all present and future leases of the Trust Property and all rents from the Trust Property. In addition, Grantor grants Beneficiary a Uniform Commercial Code security interest in the rents.

THIS DEED OF TRUST, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS, IS GIVEN TO SECURE (1) PAYMENT OF THE INDEBTEDNESS AND (2) PERFORMANCE OF ANY AND ALL OBLIGATIONS OF GRANTOR UNDER THE NOTE, THE SECURITY AGREEMENT AND THIS DEED OF TRUST. THIS DEED OF TRUST, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS, IS ALSO GIVEN TO SECURE ANY AND ALL OBLIGATIONS OF GRANTOR UNDER THE AGREEMENT. ANY EVENT OF DEFAULT UNDER THE AGREEMENT, THE NOTE OR THE SECURITY AGREEMENT SHALL ALSO BE AN EVENT OF DEFAULT UNDER THIS DEED OF TRUST. THE NOTE AND THIS DEED OF TRUST ARE GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:

1. Deed of Trust Covenants: The Grantor covenants with the Beneficiary and its successors and assigns, that Grantor is lawfully seized in fee simple of the Trust Property; that the Trust Property is free from all encumbrances, including, but not limited to, rights of persons to file mechanic's liens which liens do not appear of record, except: (i) zoning and building ordinances and regulations which do not prohibit or restrict the construction of the Improvements or the placing of the Home on the Trust Property; (ii) real estate taxes and assessments, both general and special, which are a lien but not yet due and payable; and, (iii) easements, covenants, conditions and restrictions of record which do not interfere with construction of the Improvements or with Grantor's intended use of the Trust Property and the Home; that the Grantor has good right to sell and convey the same; and that Grantor will warrant and will defend the same to the Beneficiary and its successors and assigns, forever, against the lawful claims and demands of all persons.
2. Possession and Use: Until the occurrence of an event of Default, Grantor may (a) remain in possession and control of the Trust Property, (b) use, operate or manage the Trust Property, and (c) collect any rents from the Trust Property. THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE TRUST PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES.
3. Insurance Obligation: Grantor will procure, deliver to, and maintain for the benefit of Beneficiary during the continuance of this Deed of Trust and until the same is fully satisfied and released, a policy or policies of insurance insuring the buildings and improvements now existing or hereinafter erected on the Trust Property against loss or damage by fire, lightning, windstorm, hail, explosion, riot, civil commotion, vehicles, smoke, and such other hazards, casualties, and contingencies as Beneficiary may designate.

All policies of insurance required hereunder shall be in such form and with such companies, as Beneficiary may accept in an amount equal to the total amount secured by this Deed of Trust or such lesser amount accepted by Beneficiary and shall contain the Oregon standard or other mortgagee clause acceptable to Beneficiary, with loss payable to Grantor and Beneficiary as their interests may appear. Grantor will promptly pay when due any premiums on any policy or policies of insurance required hereunder, and will deliver to Beneficiary renewals of such policy or policies at least ten (10) days prior to the expiration date(s) thereof; the said policies and renewals to be marked "paid" by the issuing company or agent. Upon Grantor's failure to comply with the requirements of this Section, Beneficiary may, in its discretion, effect any insurance required hereunder and pay the premiums due therefor, and any amounts so paid by Beneficiary shall become immediately due and payable by Grantor with interest at the rate then in effect under the Note.

In the event of any loss or damage, Grantor will give prompt notice thereof to Beneficiary. All proceeds of insurance in the event of such loss or damage shall be payable jointly to the Grantor, or Grantor's heirs, successors and assigns, and the Beneficiary, its successor and assigns. All funds will be utilized by Grantor to the extent necessary to restore the Trust Property to substantially the same condition as the Trust Property existed prior to the loss or damage, unless the Grantor shall elect not to do so. In the latter event, Beneficiary shall then apply the proceeds to the Obligations and the balance shall be paid to Grantor.

WARNING

Unless Debtor provides Secured Party with evidence of the insurance coverage as required herein, Secured Party may purchase insurance at Debtor's expense to protect Secured Party's interest. This insurance may, but need not, also protect Debtor's interest. If the Property becomes damaged, the coverage Secured Party purchases may not pay any claim Debtor makes or any claim made against Debtor. Debtor may later cancel this coverage by providing evidence that Debtor has obtained property coverage elsewhere.

Debtor is responsible for the cost of any insurance purchased by Secured Party. The cost of this insurance may be added to the Note balance. If the costs is added to the Note balance, the interest rate on the Note will apply to this added amount. The effective date of coverage may be the date Debtor's prior coverage lapsed or the date Debtor failed to provide proof of coverage.

The coverage Secured Party purchases may be considerably more expensive than insurance Debtor can obtain on Debtor's own and may not satisfy any need for property damage coverage or any mandatory liability insurance requirements imposed by applicable law.

4. **Payment of Taxes and Other Charges:** Grantor shall pay all real estate taxes, water and sewer rents, other similar claims and liens assessed or which may be assessed against the Trust Property or any part thereof, without any deduction, defalcation, or abatement, not later than ten (10) days before the date on which such taxes, water and sewer rents, claims and liens commence to bear interest or penalties, and not later than such dates, shall produce to Beneficiary receipts for the payment thereof in full and shall pay every other tax, assessment, claim, lien or other encumbrances which may at any time be or become a lien upon the Trust Property prior to the lien of this Deed of Trust; provided, however, that if Grantor shall in good faith, and by proper legal action, contest any such taxes, claims, liens, encumbrances, or other charges, or the validity thereof, and shall have established by deposit of cash with Beneficiary, a reserve for the payment thereof in such amount as Beneficiary may require, the Grantor shall not be required to pay the same, or to produce such receipts, during the maintenance of said reserve and so long as such contest operates to prevent collection, and is maintained and prosecuted with diligence, and shall not have been terminated or discontinued adversely to Grantor.

Upon Grantor's failure to comply with the requirements of this Section, Beneficiary may, in its discretion, pay such taxes and other charges, and any amounts so paid by Beneficiary shall become immediately due and payable by Grantor, with interest at the rate then in effect under the Note.

5. Advances to Pay Taxes, Assessments, Insurance Premiums, and to Protect the Trust Property: In addition to any other debt or obligation secured hereby, this Deed of Trust shall also secure unpaid balances of advances made, plus interest thereon at the rate then in effect under the Note, by Beneficiary with respect to the Trust Property, for the payment of taxes, assessments, insurance premiums, or costs incurred for the protection of the Trust Property.

6. Condemnation: The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Trust Property, or part thereof, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Beneficiary.

In the event of a total taking of the Trust Property, the proceeds shall be applied to the Obligations, with the excess, if any, paid to Grantor.

In the event of a partial taking of the Trust Property, unless Grantor and Beneficiary otherwise agree in writing, there shall be applied to the Obligations such proportion of the proceeds as is equal to that proportion which the amount of the Obligations immediately prior to the date of taking bears to the fair market value of the Trust Property immediately prior to the date of taking, with the balance of the proceeds paid to Grantor.

If the Trust Property is abandoned by Grantor, or if, after notice by Beneficiary to Grantor that the condemnor offers to make an award or settle a claim for damages, Grantor fails to respond to Beneficiary within thirty (30) days after the date such notice is mailed, Beneficiary is authorized to collect and apply the proceeds, at Beneficiary's option, either to restoration or repair of the Trust Property or to the Obligations.

Unless Beneficiary and Grantor otherwise agree in writing, any such application of proceeds shall not extend or postpone the due date of the Obligations or change the amount due thereon.

7. Compliance with Ordinances: Grantor shall comply with any municipal ordinance or regulation affecting the Trust Property within thirty (30) days after notice thereof; provided, however, that if Grantor shall in good faith, and by proper legal action, contest any such ordinance or regulation, or the validity thereof, then Grantor shall not be required to comply therewith so long as such contest operates to prevent enforcement, and is maintained and prosecuted with diligence, and shall not have been terminated or discontinued adversely to Grantor.

8. Power and Authority: Grantor covenants that Grantor has full power and authority to enter into this Deed of Trust and to incur the obligations provided for herein. No consent or approval of any governmental or administrative authority, instrumentality, or agency is required as a condition to the validity of this Deed of Trust.

9. Transfer of Title by Grantor: If all or any portion of the Trust Property or any interest in it is sold or transferred whether voluntarily, involuntarily or by operation of law (or if a beneficial interest in Grantor is sold or transferred and Grantor is not a natural person) without Beneficiary's prior written consent, Grantor shall be in Default hereunder, and the Beneficiary may, at its option, require immediate payment in full of the Obligations, and upon failure to make such payment, Beneficiary shall have the right to exercise all remedies provided in this Deed of Trust, the Note, the Security Agreement and the Agreement or otherwise at law or in equity. However, this option shall not be exercised by Beneficiary if exercise is prohibited by federal law as of the date of this Deed of Trust.

10. Default: In the event of default, Debtor shall pay Secured Party's attorneys' fees and legal expenses whether or not there is a lawsuit, including attorneys' fees and legal expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals and any anticipated post-judgment collection services.

The following shall constitute Default hereunder:

- (a) The failure to pay any amount due under the Note when the same is payable.
- (b) The failure to pay any other sums required to be paid in the Note, the Agreement, the Security Agreement or in this Deed of Trust when the same is payable.

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- (c) The failure to perform any covenant or agreement contained in the Note, the Agreement, the Security Agreement or this Deed of Trust.
 - (d) The occurrence of any Default as defined in the Note, the Agreement, or the Security Agreement.
 - (e) Transfer of any part of the Trust Property as prohibited by Section 9 hereof.

11. **Remedies for Default:** Upon the happening of any Default, the Beneficiary shall give the Grantor notice prior to acceleration (but not prior to acceleration under Section 9 unless applicable law provides otherwise or as otherwise limited by the Note, the Agreement or the Security Agreement). This notice shall be sent to Grantor by registered or certified mail with return receipt requested and shall specify: (1) the default; (2) the action required to cure the default; (3) a date, not less than thirty (30) days from the postmark date of the notice, by which the default must be cured; and (4) that failure to cure the default on or before the date specified in the notice may result in acceleration of the full amount of Principal and interest due under the Note, foreclosure by judicial or non-judicial proceedings of the Deed of Trust and the Security Agreement, and sale of the Trust Property and the Home. If the default is not cured on or before the date specified in the notice, the Beneficiary at its option may require immediate payment in full of Principal and interest due under the Note without further demand, and the Trustee or Beneficiary may forthwith:

- (a) **Foreclosure:** With respect to all or any part of the Trust Property, the Trustee shall have the right to foreclose by notice and sale, and Beneficiary shall have the right to foreclose by judicial foreclosure, in either case in accordance with and to the full extent provided by applicable law. If this Deed of Trust is foreclosed by judicial foreclosure, Beneficiary will be entitled to a judgment which will provide that if the foreclosure sale proceeds are insufficient to satisfy the judgment, execution may issue for the amount of the unpaid balance of the judgment.
- (b) **Collect Rents:** Beneficiary shall have the right, without notice to Grantor, to take possession of and manage the Trust Property and collect the rents, including amounts past due and unpaid, and apply the net proceeds, over and above Beneficiary's costs, against the Obligations. In furtherance of this right, Beneficiary may require any tenant or other user of the Trust Property to make payments of rent or use fees directly to Beneficiary. If the rents are collected by Beneficiary, then Grantor irrevocably designates Beneficiary as Grantor's attorney-in-fact to endorse instruments received in payment thereof in the name of Grantor and to negotiate the same and collect the proceeds. Payments by tenants or other users to Beneficiary in response to Beneficiary's demand shall satisfy the obligations for which the payments are made, whether or not any proper grounds for the demand existed. Beneficiary may exercise its rights under this subparagraph (b) either in person, by agent or through a receiver.
- (c) **Appoint Receiver:** Beneficiary shall have the right to have a receiver appointed to take possession of all or any part of the Trust Property, with the power to protect and preserve the Trust Property, to operate the Trust Property preceding foreclosure or sale, and to collect the rents from the Trust Property and apply the proceeds, over and above the cost of the receivership, against the Obligations. The receiver may serve without bond if permitted by law. Beneficiary's right to the appointment of a receiver shall exist whether or not the apparent value of the Trust Property exceeds the amount due on the Obligations by a substantial amount. Employment by Beneficiary shall not disqualify a person from serving as a receiver.
- (d) **Tenancy at Sufferance:** If Grantor remains in possession of the Trust Property after the Trust Property is sold as provided above or Beneficiary otherwise becomes entitled to possession of the Trust Property upon Default, Grantor shall become a tenant at sufferance of Beneficiary or the purchaser of the Trust Property and shall, at Beneficiary's option, either (1) pay a reasonable rental for use of the Trust Property, or (2) vacate the Trust Property immediately upon demand of Beneficiary.

- (e) Other Remedies: Trustee or Beneficiary shall have any other right or remedy provided in this Deed of Trust, the Note, the Security Agreement, the Agreement or by law.
- (f) Sale of Property: To the extent permitted by applicable law, Grantor and Beneficiary hereby waive any and all rights to have the Trust Property marshalled. In exercising its rights and remedies, the Trustee or Beneficiary shall be free to sell all or any part of the Trust Property together or separately, in one sale or by separate sales. Beneficiary shall be entitled to bid at any public sale on all or any portion of the Trust Property.
- (g) Waiver Election of Remedies: A waiver by any party of a breach of a provision of this Deed of Trust shall not constitute a waiver of or prejudice the party's rights otherwise to demand strict compliance with that provision or any other provision. Election by Beneficiary to pursue any remedy provided in this Deed of Trust, the Note, the Security Agreement, the Agreement or provided by law shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an Obligation of Grantor under this Deed of Trust after failure of Grantor to perform shall not affect Beneficiary's right to declare a default and to exercise any of its remedies.
- (h) Attorneys' Fees Expenses: If Beneficiary institutes any suit or action to enforce any of the terms of this Deed of Trust, Beneficiary shall be entitled to recover such sum as the court may adjudge reasonable as attorneys' fees at trial and on any appeal. Whether or not any court action is involved, all reasonable expenses incurred by Beneficiary which in Beneficiary's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the Obligations payable on demand and shall bear interest at the Note rate from the date of expenditure until repaid. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Beneficiary's attorneys' fees whether or not there is a lawsuit, including attorneys' fees for arbitration and bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyors' reports, appraisal fees, title insurance, and fees for the Trustee, to the extent permitted by applicable law. Grantor will also pay any court costs, in addition to all other sums provided by law.
- (i) Rights of Trustee: Trustee shall have all of the rights and duties of Beneficiary as set forth in this section.

12. Powers and Obligations of Trustee: The following provisions relating to the powers and obligations of Trustee are part of this Deed of Trust.

- (a) Powers of Trustee: In addition to all powers of Trustee arising as a matter of law, Trustee shall have the power to take the following actions with respect to the Trust Property upon the written request of Beneficiary and Grantor: (1) join in preparing and filing a map or plat of the Trust Property, including the dedication of streets or other rights to the public; (2) join in granting any easement or creating any restriction on the Trust Property; and (3) join in any subordination or other agreement affecting this Deed of Trust or the interest of Beneficiary under this Deed of Trust.
- (b) Obligations to Notify: Trustee shall not be obligated to notify any other party of a pending sale under any other trust deed or lien, or of any action or proceeding in which Grantor, Beneficiary or Trustee shall be a party, unless the action or proceeding is brought by Trustee.
- (c) Trustee: Trustee shall meet all qualifications required for Trustee under applicable law. In addition to the rights and remedies set forth above, with respect to all or any part of the Trust Property, the Trustee shall have the right to foreclose by notice and sale, and Beneficiary shall have the right to foreclose by judicial foreclosure, in either case in accordance with and to the full extent provided by applicable law.

- (d) **Successor Trustee:** Beneficiary, at Beneficiary's option, may from time to time appoint a successor Trustee to any Trustee appointed hereunder by an instrument executed and acknowledged by Beneficiary and recorded in the office of the recorder of the county where the Trust Property is situated. The instrument shall contain, in addition to all other matters required by state law, the names of the original Beneficiary, Trustee and Grantor, the book and page where this Deed of Trust is recorded, and the name and address of the successor trustee, and the instrument shall be executed and acknowledged by Beneficiary or its successors in interest. The successor trustee, without conveyance of the Trust Property, shall succeed to all the title, power and duties conferred upon the Trustee in this Deed of Trust and by applicable law. This procedure for substitution of trustee shall govern to the exclusion of all other provisions for substitution.

13. **Notice:** Except as otherwise required by this Deed of Trust, the Note or the Agreement, a notice which is mailed by certified mail to Grantor or to the person or persons who are then the owner or owners of the Trust Property at the address listed herein, or at such other address as Grantor shall designate to Beneficiary in writing, shall be sufficient notice when notice is required under this Deed of Trust.

14. **Cumulative Rights and Remedies:** The rights and remedies of Beneficiary as provided herein, or in the Note, the Agreement or the Security Agreement, and the warranties therein contained, shall be cumulative and concurrent, and may be pursued singly, successively, or together at the sole discretion of Beneficiary, and may be exercised as often as occasion therefor shall occur; and the failure to exercise any such right or remedy shall in no event be construed as a waiver or release of the same.

15. **Oregon Law to Apply:** This Deed of Trust shall be construed under and in accordance with the laws of the State of Oregon.

16. **Parties Bound:** This Deed of Trust shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, executors, administrators, legal representatives, successors, and assigns where permitted by this Deed of Trust.

17. **Severability:** In case any one or more of the provisions contained in this Deed of Trust shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this Deed of Trust shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

18. **Time of Essence:** Time is of the essence of this Deed of Trust.

19. **Construction:** The words "Grantor" and "Beneficiary" include singular or plural, individual or corporation, and the respective heirs, personal representatives, executors, administrators, successors, and assigns of Grantor and Beneficiary, as the case may be. The use of any gender applies to all genders. If more than one party is named as Grantor, the obligation hereunder of each such party is joint and several.

20. **Captions:** The captions herein are inserted only for convenience of reference and in no way define, limit, or describe the scope or intent of this Deed of Trust or any particular paragraph or section hereof, nor the proper construction hereof.

21. **Fair Interpretation:** Every covenant, term, and provision of this Deed of Trust shall be construed simply according to its fair meaning and not strictly for or against either party.

22. **Jury Trial Waiver:** All parties hereto hereby waive trial by jury in any action, proceeding, claim, or counterclaim, whether in contract or tort, at law or in equity, arising out of or in any way related to this Deed of Trust.

23. **Full Performance and Release.** Upon full payment and full performance of all Obligations imposed by this Deed of Trust, Beneficiary shall execute and deliver to Trustee a request for full reconveyance. Any reconveyance fee required by law shall be paid by Grantor, if permitted by applicable law.

24. **Sale of Note; Change of Loan Servicer.** The Note or a partial interest in the Note (together with this Deed of Trust, the Security Agreement, and the Agreement) may be sold one or more times without prior notice to Grantor. A sale may result in a change in the entity (known as the "Loan Servicer") that collects monthly payments due under the Note, the Security Agreement, the Agreement and this Deed of Trust. There also may be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Grantor will be given written notice of the change in accordance with Section 13 above and applicable law. The notice will also contain any other information required by applicable law.

25. **Future Advances:** The parties intend this Deed of Trust to secure future advances and to be a line of credit deed of trust as permitted by Section 86.155 of the Oregon Revised Statutes. The maximum amount of unpaid loan indebtedness, exclusive of interest thereon and advancements made pursuant hereto, which may be outstanding at any time is _____
ninety-nine thousand and sixty-seven and 00/100
 Dollars (\$ 99067.00).

The following additional provisions are a part of this Deed of Trust if a mark appears in the box in the left hand margin immediately opposite such additional provisions.

☐ 26. **Funds for Taxes and Insurance.** Subject to applicable law, Grantor shall pay to Beneficiary on the day monthly payments are due under the Note, until the Note is paid in full, an amount equal to one-twelfth of the sum of the following items ("Funds"): (a) yearly taxes and assessments which may attain priority over this Deed of Trust as a lien on the Trust Property; (b) yearly leasehold payments or ground rents on the Trust Property, if any; (c) yearly hazard or property insurance premiums; and, (d) yearly flood insurance premiums, if any. These items are called "Escrow Items." Beneficiary may, at any time, collect and hold Funds in an amount not to exceed the maximum amount a lender for a federally related mortgage loan may require for Grantor's escrow account under the federal Real Estate Settlement Procedures Act of 1974 as amended from time to time, 12 U.S.C. § 2601 *et seq.* ("RESPA"), unless another law that applies to the Funds sets a lesser amount. If so, Beneficiary may, at any time, collect and hold Funds in an amount not to exceed the lesser amount. Beneficiary may estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with applicable law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Beneficiary, if Beneficiary is such an institution) or in any Federal Home Loan Bank. Beneficiary shall apply the Funds to pay the Escrow Items. Beneficiary may not charge Grantor for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Beneficiary pays Grantor interest on the Funds and applicable law permits Beneficiary to make such a charge. However, Beneficiary may require Grantor to pay a one-time charge for an independent real estate tax reporting service used by Beneficiary in connection with the loan, unless applicable law provides otherwise. Unless an agreement is made or applicable law requires interest to be paid, Beneficiary shall not be required to pay Grantor any interest or earnings on the Funds. Grantor and Beneficiary may agree in writing, however, that interest shall be paid on the Funds. Beneficiary shall give to Grantor, without charge, an annual accounting of the Funds, showing credits and debits to the Funds and the purpose of which each debit to the Funds was made. The Funds are pledged as additional security for all sums secured by this Deed of Trust.

If the Funds held by Beneficiary exceed the amount permitted to be held by applicable law, Beneficiary shall account to Grantor for the excess Funds in accordance with the requirements of applicable law. If the amount of the Funds held by Beneficiary at any time is not sufficient to pay the Escrow Items when due, Beneficiary may so notify Grantor in writing, and, in such case Grantor shall pay to Beneficiary the amount necessary to make up the deficiency. Grantor shall make up the deficiency in no more than twelve monthly payments, at Beneficiary's sole discretion.

Upon payment in full of all sums secured by this Deed of Trust, Beneficiary shall promptly refund to Grantor any Funds held by Beneficiary. If, under Section 11, Beneficiary shall acquire or sell the Trust Property, Beneficiary, prior to the acquisition or sale of the Trust Property, shall apply any Funds held by Beneficiary at the time of acquisition or sale as a credit against the sums secured by this Deed of Trust.

27. Construction Deed of Trust Provisions: This Deed of Trust secures an obligation incurred, in part, for the purpose of financing Grantor's construction of improvements to the Trust Property, and may include the cost of acquiring the Trust Property, paying off prior encumbrances thereon and is a construction mortgage pursuant to the Uniform Commercial Code.

Grantor, in order to protect the Beneficiary's interest, hereby assigns to Beneficiary any and all of Grantor's rights or claims which relate to the construction of the Improvements on the Trust Property and which Grantor may have against any party supplying or who has supplied labor, materials or any other work or product in connection with the construction of improvements on the Trust Property.

Beneficiary assumes no obligation or responsibility whatsoever with respect to following the statutory procedures to assure that the Trust Property is free from mechanic's liens or other types of liens. Beneficiary does not, in any way, act as agent or trustee of Grantor, nor does it intend, in any way, to act for or on behalf of Grantor with respect to the disbursement of the proceeds of the Note. Supervision of the disbursements of the proceeds of the Note by Beneficiary is intended solely to protect the interest of Beneficiary in the Trust Property. Beneficiary assumes no responsibility for the completion of any Improvements on the Trust Property or the payment or other details in connection with the Trust Property and the improvements, any plans and specifications in connection with the same, or Grantor's relations with any contractors, laborers, or materialmen.

The Deed of Trust is not to be construed by Grantor, or any other party who furnishes labor, materials, or any other work or product for the improving of the Trust Property, as an agreement on the part of the Beneficiary to assure that any party will be paid for furnishing labor, materials, or any other work or product. Any such party must look entirely to the Grantor for payment. Beneficiary assumes no responsibility for the architectural or structural soundness of any improvement on the Trust Property or for the approval of any plans and specifications (any review thereof being solely for Beneficiary's purposes) or for any improvements as finally completed.

28. Incorporation of Terms of Agreement. This Deed of Trust is delivered to Beneficiary pursuant to the terms of that certain Land, Home, and Construction Loan Agreement dated the same date as this Deed of Trust (the "Agreement"). The terms, definitions, provisions, representations, warranties and covenants contained therein are hereby incorporated by reference as though fully set forth herein. Capitalized terms not defined herein shall have the meaning assigned to such terms in the Agreement. If this provision is not made a part of this Deed of Trust, all references to the Agreement contained herein shall be disregarded.

29. Security Agreement. The Note is also secured by a Security Agreement from Grantor to Beneficiary dated the same date as this Deed of Trust pledging as collateral a manufactured home which is or will be affixed to the real property described in Exhibit A attached hereto (the Security Agreement). If this provision is not made a part of this Deed of Trust, all references to the Security Agreement contained herein shall be disregarded.

EACH GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS
DEED OF TRUST, AND EACH GRANTOR AGREES TO ITS TERMS.

7675

Signed and Acknowledged in the
Presence of:

Brenda Rodriguez
(as to all)
Samuel Garcia
(as to all)

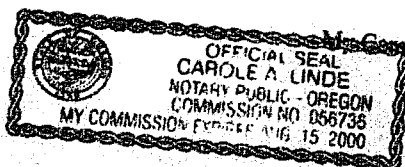
Manuel M. Garcia
GARCIA, MANUEL M.
Rosario A. Garcia
GARCIA, ROSARIO A.

State of Oregon:

County of Klamath

On MARCH 2, 1999, before me a Notary Public in and for said State, personally
appeared GARCIA, MANUEL M. - Married and GARCIA, ROSARIO A. - Married, known to me to be the person(s) who
executed the within Deed of Trust and acknowledged to me that he/she/they executed the same for the purposes therein
stated.

Carol A. Linde
Notary Public for Oregon
My Commission Expires: 2/15/00



This Instrument prepared by:

Exhibit "A"
Description of Trust Property

7676

Lot 17 and the West 25 feet of Lot 18, Block 12, ELDORADO ADDITION
to the City of Klamath Falls, according to the official plat thereof
on file in the office of the County Clerk of Klamath County, Oregon.

Exhibit "B"
Description of Manufactured or Modular Home

Year: 99

Make: GUEPSON

Model: SUMMERHILL

Description: _____

Description of Accessories: _____

Deed of Trust
Land and Home/On

(page 13 of 13)

STATE OF OREGON : COUNTY OF KLAMATH: SS.

Filed for record at request of First American Title the 4th day
of March A.D., 1999 at 11:08 o'clock A. M., and duly recorded in Vol. M99,
of Mortgages on Page 7665.

Linda Smith, County Clerk

FEE

\$70.00

by