

02 NOV 19 PM 12:47



After recording return to:
Randy & Cherie Gordon
PO Box 1455
Sutherlin, OR

File No.: 7064-52960 (LAT)
Date: November 12, 2002

THIS SPACE RESERVED FOR RECORDER'S USE

Vol M02 Page 66939

State of Oregon, County of Klamath
Recorded 11/19/2002 12:47 pm.
Vol M02, Pg 66939-43
Linda Smith, County Clerk
Fee \$ 41.00 # of Pgs 5

K-59706

TRUST DEED

THIS DEED OF TRUST, made this **Twelfth day of November, 2002**, between **Milo J. Bitner and Marjorie E. Snyder-Bitner, husband and wife**, as GRANTOR, and , as TRUSTEE, and **Randy & Cherie Gordon, husband and wife**, as BENEFICIARY.

WITNESSETH: Grantor irrevocably conveys to Trustee in trust, with power of sale, certain real property in **Klamath County, Oregon** , described as:

See Legal Description attached hereto as Exhibit A and by this reference incorporated herein.

Together with all singular the tenements, hereditaments and appurtenances and all other rights thereunto belonging or in any way now or hereafter appertaining, and the rents, issues, and profits thereof, together with 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 Thousand dollars (\$30,000.00)**, 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 **November __, 2010**.

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.

Grantor agrees:

APN:

Trust Deed - continued

File No.: 7064-52960 (LAT)

Date: 11/12/2002

1. To protect, preserve and maintain said property in good condition and repair; not to remove or demolish any building or improvement therein; 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 therefore.
3. To provide and continuously maintain insurance on the buildings now or hereafter erected on the said premises against loss or damage by fire and such other hazards as the Beneficiary may require, in an amount not less than \$30,000.00 written by companies acceptable to the Beneficiary, with loss payable to Beneficiary; proof of insurance shall be delivered to the Beneficiary as soon as issued.
4. To comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting said property.
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 receipt of payment to Beneficiary.
6. 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 7 and 8 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 payment, with interest as aforesaid, the property herein before 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.
7. 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 together with trustees' and attorneys' fees actually incurred.
8. 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 to pay all costs and expenses, including evidence of title and the Beneficiary's or Trustee's attorneys' fees; the amount of attorneys' fees mentioned in this paragraph 7 above in all cases shall be fixed by the trial court and in the event of an appeal from any judgment or decree of the trial court, Grantor further agrees to pay such sum as the appellate court shall adjudge reasonable as the Beneficiary's or Trustee's attorneys' fees on such appeal.

The parties mutually agree :

1. In the event any portion of the property is 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 monies payable as compensation for such taking, which are in excess of the amount required to pay all reasonable costs, expenses and attorneys' 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.
2. 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

APN:

Trust Deed - continued

File No.: 7064-52960 (LAT)

Date: 11/12/2002

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 attorneys' fees upon any indebtedness secured hereby, and in such order as Beneficiary may determine.

3. 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.

4. Upon default by Grantor in the payment of any indebtedness secured hereby or in the performance of any agreement contained hereunder, time being of the essence with respect to any such payment and/or performance, the Beneficiary may declare all sums secured hereby immediately due and payable. In such event Beneficiary, at its election, may proceed 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.

5. The Grantor and those persons authorized by ORS 86.753 may cure any default(s) prior to 5 days before the date the Trustee has designated for sale. any cure of default(s) shall require payment of or tendering performance and the payment of all costs and expenses actually incurred in enforcing the obligations of this Trust Deed, including, but not limited to, trustees' and attorneys' fees as authorized by law.

In the absence of any such cure, the Trustee will enforce the obligations of this Trust Deed in accordance with paragraph 4 herein and as authorized and required by applicable law.

6. 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) 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 interest 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.

7. 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 an 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.

The Grantor covenants and agrees to and with the Beneficiary and successors, that the Grantor is lawfully seized in fee simple of said described real property and has unencumbered title thereto and that Grantor 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 the 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.

APN:

Trust Deed - continued

File No.: 7064-52960 (LAT)

Date: 11/12/2002

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 hereto, whether or not named as a Beneficiary herein. In construing this deed and whenever the context so requires the singular number includes the plural.

IN WITNESS WHEREOF, the 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 compliance with the Act is not required, disregard this notice.

Milo J. Bitner
Milo J. Bitner

Marjorie E. Snyder-Bitner
Marjorie E. Snyder-Bitner

STATE OF Oregon)
County of Deschutes)ss.

This instrument was acknowledged before me on this 13 day of NOV., 2002
by **Milo J. Bitner and Marjorie E. Snyder-Bitner.**

Lisa A. Tracy
Notary Public for Oregon

My commission expires: 2/5/06



EXHIBIT "A"

A tract of land situated in the W $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 27, Township 23 South, Range 10 E.W.M., Klamath County, Oregon, more particularly described as follows:

Beginning at the South quarter corner of said Section 27; thence North 89 46' 39" East 662.79 feet; thence North 00 17' 12" West 1646.69 feet to the true point of beginning; thence North 00 17' 12" West 329.70 feet; thence East 660.39 feet; thence South 00 21' 34" East 329.10 feet; thence West 660.79 feet to the true point of beginning.