

MTC 76386-KR

2006-019062

Klamath County, Oregon



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09/22/2006 11:36:12 AM

Fee: \$36.00

WHEN RECORDED, MAIL TO:
KLRHC
Attn: CHARLES STOVER
P.O. BOX 1529
KLAMATH FALLS, OREGON 97601

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Loan Number: 1008

DEED OF TRUST

THIS DEED OF TRUST is made September 18, 2006, among the Grantor Errick S. Cohen and Marisela Cohen (hereinafter "Borrower"), Amerititle, (hereinafter "Trustee"), and the Beneficiary, KLRHC (hereinafter "Lender"), whose address is:

KLRHC
Attn: CHARLES STOVER
P.O. BOX 1529
KLAMATH FALLS, OREGON 97601

BORROWER, in consideration of the indebtedness herein recited and the trust herein created, irrevocably grants and conveys to Trustee, in trust, with power of sale, the following described property located in the County of Klamath, State of Oregon, which has the address of: 24142 Ruffed Grouse Lane, Sprague River, OR 97639 (hereinafter "Property Address"), and whose legal description is:

Lot 11 in Block 26 of FIRST ADDITION TO KLAMATH FOREST ESTATES, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

Tax Account No. 3510-023D0-02400-000

Key No. 265634

TOGETHER with all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances and rents, all of which shall be deemed to be and remain a part of the property covered by this Deed of Trust; and all of the foregoing, together with said property (or the leasehold estate if this Deed of Trust is on a leasehold) are hereinafter referred to as the "Property";

TO SECURE to Lender the repayment of the indebtedness evidenced by Borrower's Promissory Note dated September 18, 2006, and all extensions and renewals thereof (hereinafter "Note"), in the principal sum of U.S. \$25,000.00, with any interest or shared appreciation thereon, as described in the Note; the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Deed of Trust; and the performance of the covenants and agreements of Borrower herein contained. The terms of the Note are incorporated herein by reference.

Borrower covenants that Borrower is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Property, and that the Property is unencumbered, except for encumbrances of record and, if applicable, a first mortgage which will be or has been executed contemporaneously with this Loan. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to encumbrances of record.

COVENANTS. Borrower and Lender covenant and agree as follows:

1. **Payment of Principal and Interest.** Borrower shall promptly pay when due the principal and interest, or shared appreciation, evidenced by the Note, together with other charges and fees as provided herein and in the Note.
2. **Application of Payments.** Payments are to be made in accordance with the Note.
3. **Prior Mortgages and Deeds of Trust; Charges; Liens.** Borrower shall perform all of Borrower's obligations under any mortgage, deed of trust, or other security agreement with a lien which has priority over this Deed of Trust, including Borrower's covenants to make payments when due. Borrower shall pay or cause to be paid all taxes, assessments, and other charges, fines and impositions attributable to the Property which may attain a priority over this Deed of Trust, and leasehold payments or ground rents, if any.
4. **Hazard Insurance.** As provided in the Note, Borrower shall keep the improvements now existing, or hereafter erected on the Property, reasonably insured against loss by fire, hazards included within the term "extended coverage", and such other hazards as Lender may require.
5. **Mortgage Insurance.** If Lender required Mortgage Insurance as a condition of making the Loan, Borrower shall pay the premiums required to maintain the Mortgage Insurance in effect.

36.00

6. **Hazardous Substances.** Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property (1) that is in violation of any environmental law, (2) which creates an environmental condition which can trigger an environmental cleanup, or (3) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).
7. **Protection of Lender's Security.** If Borrower fails to perform the covenants and agreements contained in this Deed of Trust, or if any action or proceeding is commenced which materially affects Lender's interest in the Property, then Lender, at Lender's option, may make such appearances, disburse such sums, including reasonable attorneys' fees, and take such action as is necessary to protect Lender's interest.
- Any amounts disbursed by Lender pursuant to this paragraph with interest thereon, at the Note rate, shall become additional indebtedness of Borrower secured by this Deed of Trust and may be added by Lender to the principal, and shall alter the shared appreciation percentage, if applicable. Unless Borrower and Lender agree to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower requesting payment thereof. Nothing contained in this paragraph shall require Lender to incur any expenses or take any action hereunder.
8. **Inspection.** Lender may make or cause to be made reasonable entries upon and inspections of the Property, provided that Lender shall give Borrower notice prior to any such inspection specifying reasonable cause therefore related to Lender's interest in the Property.
9. **Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or part thereof, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender, subject to the terms of any mortgage, deed of trust, or other security agreement which has priority over this Deed of Trust.
10. **Borrower Not Released; Forbearance by Lender Not a Waiver.** Extension of the time for payment or modification of the sums secured by this Deed of Trust granted by Lender to Borrower shall not operate to release, in any manner, the liability of the original Borrower or Borrower's successors in interest. Lender shall not be required to commence proceedings by this Deed of Trust by reason of any demand made by the original Borrower or Borrower's successors in interest. Any forbearance by Lender in exercising any right to remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy.
11. **Successors and Assigns Bound; Joint and Several Liability; Co-signers.** The covenants and agreements contained herein shall bind, and the rights hereunder shall inure to the respective successors and assigns of Lender and Borrower. All covenants and agreements of Borrower shall be joint and several. Any Borrower who co-signs this Deed of Trust, but does not execute the Note, (a) is co-signing this Deed of Trust only to grant and convey that Borrower's interest in the property to Trustee under the terms of this Deed of Trust, (b) is not personally liable on the Note or under this Deed of Trust, and agrees that Lender and any other Borrower hereunder may agree to extend, modify, forbear, or make any other accommodations with regard to the terms of this Deed of Trust or the Note, without that Borrower's consent, and without releasing the Borrower or modifying this Deed of Trust as to that Borrower's interest in the Property.
12. **Notice.** Unless applicable law requires a different method, any notice that must be given to Borrower under this Deed of Trust will be given by delivering it or by mailing it by first class mail to Borrower at the Property Address herein or at a different address if Borrower gives Lender a notice of Borrower's different address. Any notice that must be given to Lender under this Deed of Trust will be given by mailing it by first class mail to Lender's address as stated herein or at a different address if Borrower is given a notice of that different address.
- Any notice provided for in this Deed of trust shall be deemed to have been given to Borrower or Lender when given in the manner designated herein.
13. **Governing Law; Severability.** The state and local laws applicable to this Deed of Trust shall be the laws of Oregon, the jurisdiction in which the Property is located. The foregoing sentence shall not limit the applicability of Federal law to this Deed of Trust. In the event that any provision or clause of this Deed of Trust or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Deed of Trust or the Note which can be given effect without the conflicting provision, and to this end the provisions of this Deed of Trust and the Note are declared to be severable. As used herein, "costs", "expenses" and "attorneys' fees" include all sums to the extent not prohibited by applicable law or limited herein.
14. **Borrower's Copy.** Borrower shall be furnished a conformed copy of the Note and this Deed of Trust at the time of execution or after recordation thereof.

15. **Rehabilitation Loan Agreement.** Borrower shall fulfill all of Borrower's obligations under any home rehabilitation, improvement, repair, or other loan agreement which Borrower enters into with Lender. Lender, at Lenders' option, may require Borrower to execute and deliver to Lender, in a form acceptable to Lender, an assignment of any rights, claims or defenses which Borrower may have against parties who supply labor, materials or services in connection with improvements made to the Property.

16. **Transfer of the Property or a Beneficial Interest in Borrower.** A sale, transfer, or refinancing of the Property shall make the loan immediately due and payable. A transfer of the property occurs when Borrower no longer occupies the property as his principal residence for the majority of the year. Failure to occupy includes, amongst other things, renting the property or allowing other family members to occupy the property while Borrower is no longer living there. Death of the last Borrower shall also constitute a transfer that will invoke the repayment provision.

While refinancing will usually require payment in full of all monies owed to KLRHC, a "rate-and-term" refinance will not invoke this provision and is permitted.

17. **Events of Default.** The events of default as provided in the Note, and any other events of default contained herein shall entitle Lender to pursue any remedies on default.

Borrower shall also be in default if, during the Loan application process, Borrower or any persons or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence or Borrower's income or assets.

18. **Acceleration of Debt.** Except as provided herein, upon Borrower's breach of any covenant or agreement of Borrower in this Deed of Trust or the Note, including the covenants to pay when due any sums secured by this Deed of Trust, Lender, prior to acceleration, shall give notice to Borrower as provided in this Deed of Trust specifying: (1) the breach; (2) the action required to cure such breach; (3) a date, not less than 10 days from the date the notice is mailed to borrower, by which such breach must be cured; and (4) that failure to cure such breach on or before the date specified in the notice may result in acceleration of the sums secured by this Deed of Trust and the sale of the Property. The notice shall further inform the Borrower of the right to reinstate after acceleration and the right to bring a court action to assert the nonexistence of a default or any other defense of Borrower to acceleration and sale. If the breach is not cured on or before the date specified in the notice, Lender, at Lender's option, may declare all of the sums secured by this Deed of Trust to be immediately due and payable without further demand and may invoke the power of sale and any other remedies permitted by applicable law. Lender shall be entitled to collect all reasonable costs and expenses incurred in pursuing the remedies provided in this paragraph including, but not limited to, reasonable attorneys fees.

If Lender invokes the power of sale, Lender shall execute or cause Trustee to execute a written notice of the occurrence of an event of default and of Lender's election to cause the Property to be sold and shall cause such notice to be recorded in each county in which the Property or some part thereof is located. Lender or Trustee shall give notice of sale in the manner prescribed by applicable law to Borrower and to the other persons prescribed by the applicable law. After the lapse of such time as may be required by applicable law, Trustee, without demand on Borrower, shall sell the Property at public auction to the highest bidder at the time and place and under the terms designated in the notice of the sale in one or more parcels and in such order as Trustee may determine. Trustee may postpone sale of all or any parcel of the Property by public announcement at the time and place of said previously scheduled sale. Lender or Lender's designee may purchase the Property at any sale.

Trustee shall deliver to the purchaser Trustee's deed conveying the Property so sold without any covenant or warranty, express or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all reasonable costs and expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees and costs of title evidence; (b) to all sums secured by any superior priority liens; (c) to all sums secured by this Deed of Trust; and (d) any excess to the person or persons legally entitled thereto.

19. **Borrower's Right to Reinstate.** Notwithstanding Lender's acceleration of the sums secured by this Deed of Trust due to Borrower's breach, Borrower shall have the right to have any proceedings begun by Lender to enforce this Deed of Trust discontinued at any time prior to the earlier of: (a) five days (or such other period as applicable law may require for reinstatement) before sale of the Property pursuant to the power of sale contained in this Deed of Trust, or (b) entry of a judgment enforcing this Deed of Trust, if: (i) Borrower pays Lender all sums which would then be due under this Deed of Trust and the Note had no acceleration occurred; (ii) Borrower cures all breaches of any other covenants or agreements of Borrower contained in this Deed of Trust, including the Note; (iii) Borrower pays all reasonable expenses incurred by Lender and trustee in enforcing the covenants and agreements of Borrower contained in this Deed of Trust, including, but not limited to, reasonable attorneys' fees; and (iv) Borrower takes such action

as Lender may reasonably require to assure that the lien of this Deed of Trust shall continue unimpaired. Upon such payment and cure by Borrower, this Deed of Trust and the obligations secured hereby shall remain in full force and effect as if no acceleration had occurred.

20. **Reconveyance.** Upon payment of all sums secured by this Deed of Trust, Lender shall request Trustee to reconvey the Property and shall surrender this Deed of Trust and all Notes evidencing indebtedness secured by this Deed of Trust to Trustee. Trustee shall reconvey the Property without warranty and without charge to the person or persons legally entitled thereto. Such person or persons shall pay all costs of recordation, if any.
21. **Substitute Trustee.** In accordance with applicable law, Lender may from time to time remove Trustee and appoint a successor Trustee to any Trustee appointed hereunder. Without conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred upon the Trustee herein and by applicable law.
22. **Attorneys' Fees.** As used in this Deed of Trust and in the Note, "attorneys' fees" shall include any attorneys' fees that shall be awarded by an appellate court.
23. **Time is of the Essence.** Time is of the essence with respect to all covenants and obligations you have made under this Deed of Trust.
24. **Indemnity.** You agree to save, defend, and to hold harmless Lender, its employees, agents and assigns, from any and all claims, demands, damages, liabilities, and expenses arising out of Lender's interest under this Deed of Trust.
25. **Miscellaneous Rights of Lender.** Lender may at any time and from time to time, without notice, release any person liable for the payment of any obligation under this Deed of Trust; extend the time or agree to alter the terms of payment of any obligation; release any property securing any obligation; or agree to otherwise alter or amend the terms of this Deed of Trust in any way without affecting the liability of any person or the validity of this Deed of Trust.
26. **Number, Gender, and Captions.** As used in this Deed of Trust, the singular shall include the plural, and the plural the singular. The masculine and neuter shall each include the masculine, feminine, and neuter, as the context requires. All captions are intended solely for convenience of reference and shall in no way limit any of the provisions of this Deed of Trust.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Deed of Trust and in any rider(s) executed by Borrower and recorded with it.

BORROWER: *Errick S. Cohen*

Printed Name: **Errick S. Cohen**

CO-BORROWER: *Marisela Cohen*

Printed Name: **Marisela Cohen**

STATE OF OREGON)

County of Klamath)

On September 18, 2006, before me, the undersigned Notary Public, in and for the County and State aforesaid, personally appeared the above-named **Errick S. Cohen** and **Marisela Cohen**, who ~~is/are known~~ ^{provided} to me to be the identical individual(s) who executed the within instrument, and acknowledged to me execution of said instrument freely and voluntarily.

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

Kristi L. Redd
NOTARY PUBLIC FOR OREGON



REQUEST FOR FULL RECONVEYANCE: To be used only when obligations have been paid.
To: _____, Trustee

The undersigned is the legal owner and holder of all indebtedness secured by the foregoing Deed of Trust. All sums secured by the Deed of Trust have been fully paid and satisfied. You are hereby directed, on payment to you of any sums owing to you under the terms of the Deed of Trust, or pursuant to statute, to cancel all evidences of indebtedness secured by the Promissory Note and Deed of Trust which are delivered to you herewith, and to reconvey, without warranty, to the parties designated by the terms of the Deed of Trust, the estate now held by you under the same. Please mail the reconveyance and documents to: KLAMATH LAKE REGIONAL HOUSING CENTER
P.O. BOX 1529
KLAMATH FALLS, OREGON 97601

Dated: _____, 20____