

2013-005801

Klamath County, Oregon



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05/23/2013 10:14:25 AM

Fee: \$57.00

DOUGLAS L. WARDELL & DIANNA L. NYE-WARDELL  
5401 EASTRIDGE ST SOUTH  
SALEM, OR 97306

Beneficiary

NINA B SMITH  
2715 ROBERTS ROAD  
MEDFORD, OR 97504

After Recording

*Santiam Escrow, Inc.*

Post Office Box 515  
Stayton, Oregon 97383-0515

**TRUST DEED**

Date: June 21, 2011

This Trust Deed, between Douglas L. Wardell Jr. and Dianna L. Nye-Wardell as Grantor, Western Title Company as Trustee, and Nina Smith as the Beneficiary:

WITNESSETH: The Grantor conveys to the Trustee, in trust, with power of sale, the property in Klamath County, Oregon described as:

**LOT 7, BLOCK 5, TRACT # 1042, TWO RIVERS NORTH ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE OFFICE OF THE COUNTY CLERK OF KLAMATH COUNTY OREGON. TAX ACCOUNT NUMBER 164235, M790406 TAX LOT # 2607-001BO-01900, M180650**

Together with all appurtenances, tenements, hereditaments, rents, issues, profits, water rights, easements or privileges now or hereafter belonging to, derived from or in anywise appertaining to the above-described premises.

This deed is intended to secure the payment of a promissory note dated August 10, 2007 and superseded by promissory note signed June 21, 2011 in the face amount of \$100,000.00.

Insurance: Grantor agrees to keep all improvements now existing, or which shall hereafter be placed on the property, insured against fire and other casualties covered by a standard policy of fire insurance with extended coverage endorsements.

All insurance policies and renewals thereof shall be in form acceptable to Beneficiary and shall include a standard mortgage clause in favor of Beneficiary. In the event of loss, Grantor shall give prompt notice to the insurance carrier and Beneficiary, and Beneficiary may make proof of loss if note made promptly by Grantor.

Unless Beneficiary and Grantor otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the property damaged, provides such restoration or repair s economically feasible and the security of the Trust Deed would be impaired, the insurance proceeds shall be applied to the sums secured by this Trust Deed, with the excess, if any, paid to the Grantor.

**Taxes and Liens:** Grantor shall pay all taxes, assessments against and other charges against the property. All obligations under any mortgage or other lien, which is prior to this Trust Deed.

Grantor shall allow no other lien or encumbrance, which would have precedence to this Trust Deed to exist. However, Grantor shall not be required to discharge any such other lien so long as Grantor (1) shall agree with Beneficiary in writing to the payment of the obligation secured by such lien in a manner acceptable to Beneficiary (2) or shall in good faith contest such lien by, or defend enforcement of such lien in legal proceedings, which operate to prevent the enforcement of lien or forfeiture of the property or any part thereof.

**Preservation and Maintenance of Property:** Grantor shall keep the property, garage and shop now existing on said premises in good repair, not commit or suffer waste of any kind upon said premises: not use or permit the use of said premises of any unlawful purpose: and do all acts and things necessary to preserve all rights now or hereafter appurtenant to or used in connection with said premises. If singlewide mobile home is removed, it will be replaced with a home of equal or greater value.

**Protection of Beneficiaries Security:** If Grantor fails to perform the covenants and agreements contained in the Trust Deed, or if any action or proceeding is commenced which materially affects Beneficiaries interest in the property, including, but not limited to, eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankrupt, the Beneficiary at Beneficiary option, upon notice to Grantor, may make such appearances, disburse such sums and take such actions as is necessary to protect Beneficiaries interest, including, but not limited to, disbursement of reasonable attorney's fees and entry upon the property to make repairs. Any amounts disbursed by Beneficiaries pursuant to this paragraph shall become additional indebtedness of Grantor secured by this Trust Deed.

Upon written request of the Beneficiary, the Trustee may (a) consent to the making of any map or plat of said property, (b) join in granting any easement or creating any restriction thereon: (c) join in any subordination or other agreement affecting this deed or the lien hereof: (d) reconvey, without warranty, all or any part of the property.. The grantee in any reconveyance may be described as the "person or persons legally entitled thereto: and the recitals therein of any matters or facts shall be conclusive proof of the truthfulness thereof. Trustee's fee for any of the services in the paragraph shall be in an amount fixed by statue, if there be a statue governing the same, or otherwise a reasonable amount.

**Time of Essence and Default:** Time is of the essence hereof and upon default by the Grantor in the payment of said note or in the performance of any covenant herein, the Beneficiary may declare all sums secured hereby immediately due and payable and may deliver to the trustee a written notice of default and election to sell the property. Upon delivery of said notice of default and election to sell, the Beneficiaries shall deposit with the Trustee this deed of trust and all promissory notes and documents evidencing expenditures secured hereby, whereupon the Trustee shall fix the time and place of sale and 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. Should the Beneficiaries elect to foreclose by advertisement and sale then after default at any time prior to five days before the date set by the Trustee for the Trustee's sale, the Grantor or other person so privileged by ORS 86.753, may pay to the beneficiary or his successors in interest, respectively, the entire amount then due under the terms of the Trust Deed and the obligation secured thereby (including costs and expenses actually incurred in enforcing the terms of the obligation and Trustee's and attorney's fees not exceeding the amounts provided by law) other than such portion of the principal as would not then be due had no default occurred, and thereby cure the default, in which event all foreclosure proceedings shall be dismissed by the Trustee. Otherwise, the sale shall be held on the date and the time and place designated in the notice of sale or the time to which said sale might be postponed as provided by law. The Trustee may sell said property either in one parcel or in separate parcels and shall sell the parcel or parcels at auction to the highest bidder for cash, payable at the time of sale. Trustee shall deliver to the purchaser this deed in form as required by law conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in the deed of any matters of fact shall be conclusive proof of the truthfulness thereof. Any person, excluding the Trustee, but including the Grantor and Beneficiary, may purchase at the sale.

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 for the Trustee and reasonable charge by Trustee's attorney, (2) to the obligation secured by the Trust Deed, (3) to all persons having recorded liens subsequent to the interest of the Trustee in the Trust Deed as their interests may appear in the order of the priority and (4) the surplus, if any, to the Grantor or to their successor in interest entitled to such surplus.

**Waiver:** The Grantor agrees that failure of the Beneficiaries at any time to required performance by the Grantor of any provision of this trust deed or said note, shall in no way affect Beneficiaries right hereunder to enforce the same, nor shall any waiver by the Beneficiaries of any breach of any provision hereof be held to be a waiver of any succeeding breach of any such provision, or as a waiver of the provision itself.

**Notice of Default:** In the event that Grantor shall default in the payment of any sum due under the terms of said note or in the performance of any covenant of this Trust Deed, Beneficiaries shall give Grantor 30 days written notice at 5401 Eastridge St S, Salem OR 97306, specifying said default, and Grantor shall have 30 days in which to make said payment or perform such covenant, or to enter upon such performance and diligently pursue the same to completion, and if Grantor shall fail to do so, the Beneficiaries shall have the

Right to declare the entire unpaid balance of said note immediately due and payable and to pursue his remedies provided herein.

**Deed in Lieu of Foreclosure:** Upon default and the giving of said 30-day notice thereof, Grantor shall have the option within said 30-day period to deed the above described premises to the Beneficiaries, be a form of estoppels deed in lieu of foreclosure, and Beneficiaries shall accept said deed and become entitled to the immediate possession of said property.

**Transfer of the Property: Assumption.** If all or any part of the property or an interest therein is sold or transferred by Grantor without Beneficiaries prior written consent, excluding (1) the creation of a lien or encumbrance subordinate to this Trust Deed, (2) the creation of a purchase money security interest for household appliances, (3) a transfer by devise, descent or by operation of law upon the death of a joint tenant or (4) the grant of any leasehold interest of Seven years or less or containing an option to purchase, Beneficiaries may, at Beneficiaries option, declare all the sums secured by this Trust Deed to be immediately due and payable. Beneficiaries shall have waived such option to accelerate if, prior to the sale or transfer, Beneficiaries and the person whom the property is to be sold or transferred reach agreement in writing that the credit of such person is satisfactory to Beneficiaries. If Beneficiaries have waived the option to accelerate provided in this paragraph, and if Grantor's successor in interest has executed a written assumption agreement accepted in writing by Beneficiaries, Beneficiaries shall release Grantor from all obligations under this Trust Deed and the note.

If Beneficiaries exercise such option to accelerate, Beneficiaries shall mail Grantor notice of acceleration in accordance with the notice provision of this agreement. Such notice shall provide a period of not less than thirty days from the date the notice is mailed within which Grantor may pay the sums declared due. If Grantor fails to pay such sums prior to the expiration of such period, Beneficiaries may, without further notice or demand or Grantor, invoke any remedies permitted by the paragraph herein entitle Time of Essence and Default.

The Trustee accepts this trust when this deed, duly executed and acknowledged, is made a public record as provided by law.

This Trust Deed inures to the benefit of and binds the parties hereto, their heirs, devisees, administrators, personal representatives, successors and assigns.

**Substitute Trustees:** In accordance with applicable law, Beneficiaries 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.

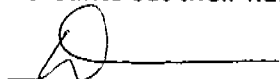
**Attorney's Fees:** As used in this Trust Deed and in the note "attorney's fees" shall include attorney's fees, if any, which shall be awarded by a appellate court.


Final Agreement: This Trust Deed contains all the terms and conditions agreed on by the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this Trust Deed, shall be deemed to exist or to bind any of the parties hereto.

Reconveyance: Upon payment of all sums secured by this Trust Deed, Beneficiaries shall request Trustee to reconvey the property and shall surrender this Trust Deed and all notes evidencing indebtedness secured by this Trust Deed to Trustee. Trustee shall reconvey the property without warranty to the person or persons legally entitled thereto. Such person or persons shall pay all costs of reconveyance and recordation, if any.

Whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular includes the plural.

INWITNESS WHEREOF, DOUGLAS L. WARDELL, JR and DIANNA L. NYE-WARDELL has hereunto set their hand on the day and year first above written.

  
\_\_\_\_\_  
Douglas L. Wardell, Jr.

  
\_\_\_\_\_  
Dianna L. Nye-Wardell


STATE OF OREGON )

)SS.

County of Marion )



On this 21<sup>st</sup> day of June, 2011 personally appeared Douglas L. Wardell, Jr and Dianna L. Nye-Wardell and acknowledged the foregoing instrument to be their voluntary act and deed.

  
\_\_\_\_\_  
NOTARY PUBLIC for Oregon  
My Commission Expires: 3-8-2013

INWITNESS WHEREOF, Nina B Smith has hereunto set their hand on the day and year first above written.

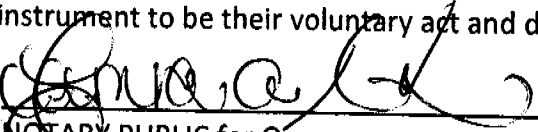
  
\_\_\_\_\_  
Nina B. Smith

STATE OF OREGON )

)SS.

Jackson  
County of Marion )

On this 27 day of June, 2011 personally appeared Nina B. Smith and acknowledged the foregoing instrument to be their voluntary act and deed.

  
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NOTARY PUBLIC for Oregon  
My Commission Expires: 4/26/13

