

MTD10013584

2014-002202

Klamath County, Oregon

03/14/2014 09:49:08 AM

Fee: \$72.00

AFTER RECORDING RETURN TO:

Mike Benner

13554 Peters Road

Lake Oswego, OR 97035

DEED OF TRUST

THIS DEED OF TRUST, made this 26 day of February, 2014, by Pahlisch Homes Inc, an Oregon Corporation ("Grantor"), Mike Benner and Suzanne Benner ("Beneficiary"), and Stewart Title ____ ("Trustee").

W I T N E S S E T H:

Grantor hereby bargains, sells and conveys to Trustee in Trust, with power of sale, the following described real property ("Property") in Klamath County, Oregon:

Lots 35 and 39 of Tract 1482 SKY RIDGE ESTATES PHASE 2, according to the official plat thereof on file in the office of the County Clerk, Klamath County, Oregon.

which Property is not used principally for agricultural or farming purposes, together with all tenements, hereditaments and appurtenances now or hereafter thereunto belonging or in anyway appertaining, and the rents, issues and profits thereof.

This Deed of Trust is for the purpose of securing performance of each agreement of Grantor herein contained and full performance of Grantor's obligations as set forth in that certain promissory note made by Grantor of even date herewith in the principal amount of **\$454,572.00**.

To protect the security of this Deed of Trust, Grantor covenants and agrees:

1. Grantor warrants that it holds marketable title to the Property in fee simple, free from all encumbrances other than those in any policy of title insurance issued in favor of Beneficiary in connection with the Deed of Trust.

2. Grantor shall keep the Property in good condition and repair; permit no waste thereof; and shall comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting the Property. Grantor represents and warrants that, to Grantor's best

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\$72.00

knowledge, the Property is currently in compliance with all such laws, ordinances, regulations, covenants, conditions and restrictions.

3. Grantor shall cause the Property and all operations on the Property to comply with all Environmental Laws and orders of any governmental authorities having jurisdiction under any Environmental Laws. In this Deed of Trust, "Environmental Laws" means any and all state, federal and local statutes, regulations and ordinances relating to the protection of human health or the environment. Grantor shall exercise extreme care in handling Hazardous Substances and shall undertake any and all preventive, investigatory or remedial action (including, without limitation, emergency response, removal, containment and other remedial action) (a) required by any applicable Environmental Laws, or (b) necessary to prevent or minimize property damage (including, without limitation, damage to Grantor's own property), personal injury, or damage to the environment, or the threat of any such damage or injury, by releases of or exposure to Hazardous Substances in connection with the Property or operations on the Property. "Hazardous Substances" is used in its very broadest sense and refers to materials that, because of their quantity, concentration, or physical, chemical or infectious characteristics, may cause or pose a present or potential hazard to human health or the environment when improperly used, treated, stored, disposed of, generated, manufactured, transported or otherwise handled. "Hazardous Substances" shall include, without limitation, petroleum products or crude oil or any fraction thereof and any and all hazardous or toxic substances, materials or waste as defined by or listed under the Resource Conservation and Recovery Act, the Toxic Substances Control Act, the Comprehensive Environmental Response, Compensation and Liability Act, or any other of the Environmental Laws. In the event Grantor fails to perform any of its obligations under this paragraph, Beneficiary may perform (but shall not be required to perform) such obligations at Grantor's expense. In performing any such obligations of Grantor, Beneficiary shall at all times be deemed to be the agent of Grantor and shall not by reason of such performance be deemed to be assuming any responsibility of Grantor under any Environmental Law or to any third party. Grantor agrees to indemnify and hold harmless Beneficiary and its successors, assigns and representatives, or any of them, from and against any and all claims, demands, losses, liabilities, costs and expenses (including, without limitation, attorney fees at trial and on any appeal or petition for review) incurred by such person (a) arising out of or relating to any investigatory or remedial action involving the Property and the operations conducted on the Property and required by Environmental Laws or by orders of any governmental authority having jurisdiction under any Environmental Laws, or (b) on account of injury to any person whatsoever or damage to any property arising out of, in connection with, or in any way relating to (i) the violation of any Environmental Laws, (ii) the use, treatment, storage, generation, manufacture, transport, release, spill, disposal or other handling of Hazardous Substances, by any means whatsoever. The covenants contained in this paragraph shall survive the repayment of the indebtedness, the reconveyance of this trust deed, or the delivery of a deed in lieu of foreclosure to Beneficiary, or any successor, and shall survive foreclosure, whether judicial or nonjudicial, of the Property by Beneficiary, or any successor of Beneficiary, as holder of any security interest in the Property or the indebtedness, or as owner of the Property or any other property of Grantor following foreclosure or the delivery of a deed in lieu of foreclosure.

4. Grantor shall provide and continuously maintain insurance on the buildings now or hereafter erected on the property against loss or damage by fire and such other hazards as the Beneficiary may from time to time, written in companies acceptable to the Beneficiary, with loss payable to the latter. All policies of insurance shall be delivered to the Beneficiary as soon as insured. If the grantor shall fail for any reason to procure any such insurance and to deliver the policies to the Beneficiary at least fifteen days prior to the expiration of any policy of insurance now or hereafter placed on the buildings, the Beneficiary may procure the same at grantor's expense. The amount collected under any fire or other insurance policy may be applied by Beneficiary upon any indebtedness secured hereby and in such order as Beneficiary may determine, or at option of Beneficiary the entire amount so collected, or any part thereof, may be released to grantor. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

WARNING. UNLESS GRANTOR PROVIDES BENEFICIARY WITH EVIDENCE OF THE INSURANCE COVERAGE AS REQUIRED BY THIS TRUST DEED, BENEFICIARY MAY PURCHASE INSURANCE AT GRANTOR'S EXPENSE TO PROTECT BENEFICIARY'S INTEREST. THIS INSURANCE MAY, BUT NEED NOT, ALSO PROTECT GRANTOR'S INTEREST. IF THE COLLATERAL BECOMES DAMAGED, THE COVERAGE BENEFICIARY PURCHASES MAY NOT PAY ANY CLAIM GRANTOR MAKES OR ANY CLAIM MADE AGAINST GRANTOR. GRANTOR MAY LATER CANCEL THIS COVERAGE BY PROVIDING EVIDENCE THAT GRANTOR HAS OBTAINED PROPERTY COVERAGE ELSEWHERE. GRANTOR IS RESPONSIBLE FOR THE COST OF ANY INSURANCE PURCHASED BY BENEFICIARY. THE COST OF THIS INSURANCE MAY BE ADDED TO GRANTOR'S CONTRACT OR LOAN BALANCE. IF THE COST IS ADDED TO GRANTOR'S CONTRACT OR LOAN BALANCE, THE INTEREST RATE ON THE UNDERLYING CONTRACT OR LOAN WILL APPLY TO THE ADDED AMOUNT. THE EFFECTIVE DATE OF THE COVERAGE MAY BE THE DATE GRANTOR'S PRIOR COVERAGE LAPSED OR THE DATE OF FAILED TO PROVIDE PROOF OF COVERAGE. THE COVERAGE BENEFICIARY PURCHASES MAY BE CONSIDERABLY MORE EXPENSIVE THAN INSURANCE GRANTOR CAN OBTAIN ON ITS OWN AND MAY NOT SATISFY ANY NEED FOR PROPERTY LIABILITY INSURANCE REQUIREMENTS IMPOSED BY APPLICABLE LAW.

5. Grantor shall pay before delinquent all lawful taxes and assessments upon the Property and shall keep the property free and clear of all charges, liens or encumbrances except this Deed of Trust and those encumbrances of record as of the date of recording of this Deed of Trust. Grantor further agrees that it will not encumber the Property with any additional financing until the indebtedness to Beneficiary is paid in full and this Deed of Trust has been reconveyed.

6. Grantor shall protect, indemnify, defend and save Beneficiary harmless from any and all loss, costs, expenses, charges and liabilities, growing or arising out of or connected with this Deed of Trust; the ownership, use, possession and enjoyment of the Property; or operations conducted or carried out thereon by Grantor, Grantor's agents, contractors, employees or lessees. Grantor further covenants and agrees to protect, indemnify, defend and save Beneficiary harmless from and against any and all loss, costs, expenses, damages, charges, liabilities and demands for injury to or death of persons and damage to property arising out of or based upon any negligent act or omission of Grantor, Grantor's agents, contractors, employees or lessees on or about the Property. Grantor shall reimburse Beneficiary for any reasonable attorneys' fees and costs incurred by Beneficiary in actions or proceedings related to the foregoing. The provisions of this paragraph shall not apply to the extent of any fault by Beneficiary.

7. Grantor shall defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee and to pay all costs and expenses, including cost of title search and attorneys' fees in a reasonable amount in any such action or proceeding.

8. If any action is instituted upon this Deed of Trust, the prevailing party shall be entitled to recover from the losing party, in addition to costs and disbursements allowed by law, the costs of evidencing title, including title reports, surveyor's reports and foreclosure reports; such sums as the trial court may adjudge reasonable as attorneys' fees; and, in the event of an appeal, such sums as the appellate courts may adjudge reasonable as attorneys' fees. This provision shall include prevailing fees in any adversary proceeding in bankruptcy, including motions for relief from stay.

9. Should Grantor fail to pay when due any taxes, assessments, insurance premiums, liens, encumbrances or other charges against the Property, Beneficiary may pay the same and the amount so paid, with interest at the prime interest rate published in the Wall Street Journal on the due date plus three percent (3%) per annum, which interest shall be added to and become a part of the debt secured by this Deed of Trust.

10. In the event Grantor sells, conveys, assigns, leases, encumbers or otherwise alienates any interest of Grantor in the Property without the prior written consent of Beneficiary, which consent shall not be unreasonably withheld, such transfer of interest shall be void and all sums payable to Beneficiary and secured by this Deed of Trust shall, at the election of Beneficiary, become immediately due and payable.

11. In the event any portion of the Property is taken or damaged in an eminent domain proceeding, the entire amount of the award or such portion as may be necessary to fully satisfy the obligation secured hereby, shall be paid to Beneficiary to be applied to said obligation.

12. TIME IS OF THE ESSENCE in all payments and performances secured hereby; however, by accepting payment of any sum or performance of any obligation secured hereby after its due date, Beneficiary does not waive its right to require prompt payment when due of all other sums or performance so secured or to declare default for failure to so pay.

13. Grantor shall be in default under this Deed of Trust if:

- a. Any payment is not made when due as agreed with Beneficiary or as stated in this Deed of Trust subject to any applicable grace period or notice requirements.
- b. Grantor fails to perform any other obligation contained in this Deed of Trust subject to any applicable grace period or notice provision.
- c. Grantor voluntarily files for relief under any chapter of the Federal Bankruptcy Code, or does not obtain the dismissal of any involuntary petition of bankruptcy within 90 days of its filing.
- d. A receiver, trustee or custodian is appointed by Grantor to manage or control the Property.
- e. Grantor makes an assignment for the benefit of creditors.
- f. Any lien whatsoever is imposed against the Property through a legal proceeding, restraint or otherwise, and not removed within 30 days or not bonded within 30 days in such manner that Beneficiary's interest in the Property is not jeopardized.

14. Any notice required under this Deed of Trust shall be in writing and shall be effective when actually delivered in person or two days after deposit in the U.S. Mail, Certified Return Receipt Requested, postage prepaid and addressed to the party at the address below or at such other addresses as such party may designate from time to time in writing:

Grantor: Pahlisch Homes Inc
63088 NE 18 Street Suite 100
Bend OR 97701

Beneficiary: Mike Benner
Suzanne Benner
13554 Peters Rd.
Lake Oswego, OR 97035

15. Trustee shall reconvey all or any part of the Property covered by this Deed of Trust to the person entitled thereto on written request of Grantor and Beneficiary or upon satisfaction

of the obligation secured and written request for reconveyance made by Beneficiary or the person entitled thereto.

16. Upon default by Grantor in the payment of any indebtedness secured hereby or in the performance of any agreement contained herein, all sums secured hereby shall immediately become due and payable at the option of Beneficiary. In such event and upon written request of Beneficiary, Trustee shall sell the trust Property, in accordance with ORS 86.705 to 86.795, at public auction to the highest bidder. Any person except Trustee may bid at the Trustee's sale. Trustee shall apply the proceeds of the sale as follows: (a) to the expense of the sale, including the statutory Trustee's fee and attorneys' fees; (b) to the obligation secured by this Deed of Trust; (c) 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 (d) the surplus, if any, shall be distributed to the persons entitled thereto.

17. Trustee shall deliver to the Buyer at the sale its deed, without warranty, which shall convey to the Buyer the interest in the Property which Grantor had or had the power to convey at the time of his execution of this Deed of Trust. Trustee's deed shall recite the facts showing that the sale was conducted in compliance with all the requirements of law and of this Deed of Trust, which recital shall be prima facie evidence of such compliance and conclusive evidence thereof in favor of bona fide Buyers and encumbrancers for value.

18. The power of sale conferred by this Deed of Trust and by the ORS 86.705 to 86.795, is not an exclusive remedy; Beneficiary may cause this Deed of Trust to be foreclosed as a mortgage, in which case Grantor shall be liable for any deficiency remaining due on the judgment following the foreclosure sale. Beneficiary may also elect to file an action at law to collect the obligation secured hereby.

19. Beneficiary may at any time appoint in writing a successor trustee, and upon the recording of such appointment in the mortgage records of the county in which this Deed of Trust is recorded, the successor trustee shall be vested with all powers of the original Trustee. Trustee is not obligated to notify any party hereto of a pending sale under any other deed of trust or of any action or proceeding in which Grantor, Trustee or Beneficiary shall be a party unless such action or proceeding is brought by Trustee.

20. This Deed of Trust applies to, inures to the benefit of and is binding upon the parties hereto and their heirs, devisees, legatees, administrators, executors, successors and assigns. The term Beneficiary shall mean the payee of the obligation secured hereby, whether or not named as Beneficiary herein. This Deed of Trust shall be interpreted and governed by the laws of the State of Oregon.

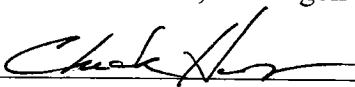
21. Beneficiary or Beneficiary's agent shall have the right at all reasonable times, after reasonable prior written notice to Grantor, to enter in and upon the Property for purposes of inspecting same.

22. Beneficiary agrees that, upon the sale by Grantor of a lot or lots described in Exhibit A hereto and subject to this Deed of Trust, and upon payment of the amount due Beneficiary as a result of said sale pursuant to the Note secured by this Deed of trust, Beneficiary shall release the lot(s) described in the notice and reconvey the same to Grantor.

STATUTORY NOTICE: UNDER OREGON LAW, MOST AGREEMENTS, PROMISES AND COMMITMENTS MADE BY THE LENDER AFTER OCTOBER 3, 1989, CONCERNING LOANS AND OTHER CREDIT EXTENSIONS, WHICH ARE NOT FOR PERSONAL, FAMILY OR HOUSEHOLD PURPOSES OR SECURED SOLELY BY THE BORROWER'S RESIDENCE MUST BE IN WRITING, EXPRESS CONSIDERATION AND BE SIGNED BY THE LENDER TO BE ENFORCEABLE.

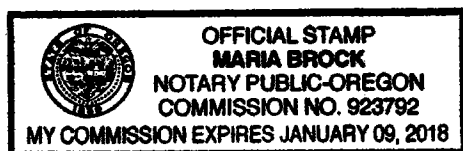
GRANTOR

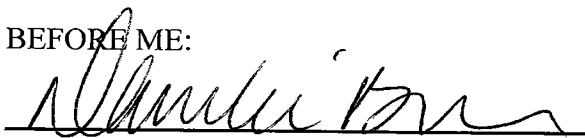
Pahlisch Homes Inc, an Oregon Corporation


By: Chuck Hammagren
Its: Treasurer/CFO

STATE OF OREGON)
) ss.
County of Deschutes)

On this 26 day of February, 2014, personally appeared the above-named Chuck Hammagren who acknowledged he executed this document as Treasurer/CFO of Pahlisch Homes, Inc., an Oregon corporation, as his voluntary act and deed and on behalf of said corporation.



BEFORE ME:

Notary Public for Oregon
My Commission Expires: 1-9-14