

THIS INDENTURE between Elmer C. Benson\* and Joy Elaine Benson

\* who acquired title as Elmer G. Benson hereinafter called the first party,

and TRANSAMERICA FINANCIAL SERVICES, hereinafter called the second party;

## WITNESSETH:

WHEREAS, the title to the real property hereinafter described is vested in fee simple in the first party, subject to the lien of a mortgage or trust deed recorded in the mortgage records of the county hereinafter named, in Book M-82, at Page 7436 thereof or as File/Reel No. \_\_\_\_\_, reference to said records hereby being made, and the notes and indebtedness secured by said mortgage or trust deed are now owned by the second party, on which notes and indebtedness there is now owing and unpaid the sum of \$ 34,697.00, the same being now in default and said mortgage or trust deed now being subject to immediate foreclosure, and,

WHEREAS, the first party, being unable to pay the same, has requested the second party to accept an absolute deed of conveyance of said property in exchange for second party's agreement not to seek any deficiency judgment against first party on account of the above referenced note(s) and deed of trust or mortgage, or judgment on account of the note alone,

NOW THEREFORE, for the consideration hereinafter stated, the first party does hereby grant, bargain, sell and convey unto the second party, his heirs, successors and assigns, all of the following described real property situated in Klamath

County, State of Oregon to wit:

The Westerly rectangular 11.5 feet of Lot 4 and all of Lot 5, Block 14,  
FIRST ADDITION TO THE CITY OF KLAMATH FALLS, in the County of Klamath,  
State of Oregon.

together with all of the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining;

TO HAVE AND TO HOLD the same unto said second party, his heirs, successors and assigns forever. And the first party, for himself and his heirs and legal representatives, does covenant to and with the second party, his heirs, successors and assigns, that the first party is lawfully seized in fee simple of said property, free and clear of encumbrances except said mortgage or trust

deed and further except: All encumbrances, liens and interests of record and those apparent on the land, including but not limited to, property tax liens and the lien of the Bankruptcy Trustee in Case # 684-08221 in the District of Oregon.

that the first party will warrant and forever defend the above granted premises, and every part and parcel thereof against the lawful claims and demands of all persons whomsoever, other than the liens above expressly excepted, that this deed is intended as a conveyance, absolute in effect as well as in form, of the title to said premises to the second party and all redemption rights which the first party may have therein, and not as a mortgage, trust deed or security of any kind; that possession of said premises hereby is surrendered and delivered to said second party; that in executing this deed the first party is not acting under any misapprehension as to the effect thereof or under any duress, undue influence, or misrepresentation by the second party, or second party's representatives, agents or attorneys, that this deed is not given as a preference over other creditors of the first party and that at this time there is no person, co-partnership, or corporation other than the second party, interested in said premises directly or indirectly, in any matter whatsoever except as aforesaid.

This deed does not effect a merger of the fee simple ownership and the lien of the mortgage described above. The fee and lien shall hereinafter remain separate and distinct.

By acceptance of this deed, which acceptance of this deed shall occur only upon signature below by an officer of second party and recordation of this deed at the direction of the second party, the second party covenants and agrees that he shall forever forbear taking any action whatsoever to collect against the first party on the promissory note given to secure the mortgage above described, other than by foreclosure of that mortgage, and that in any proceeding to foreclose the mortgage he shall not seek, obtain or permit a deficiency judgment against the first party, his heirs or assigns, such rights and remedies being hereby waived. Other than as set forth in this paragraph, however the debt evidenced by note(s) described herein is not satisfied or forgiven.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$ 34,697.00. However, the actual consideration consists of or includes other property or value given or promised which is part of (the whole) consideration.

Please see EXHIBIT "A".

In construing this instrument, it is understood and agreed that the first party as well as the second party may be more than one person; that if the context so requires, the singular shall be taken to mean and include the plural; that the singular pronoun means and includes the plural, the masculine, the feminine and the neuter and that, generally, all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

IN WITNESS WHEREOF, the first party above named has executed this instrument; if first party is a corporation, it has caused its corporate name to be signed hereto and its corporate seal affixed by its officers duly authorized thereunto by order of its Board of Directors.

DATED THIS 6 day of Nov 1984

Joy E. Benson

Elmer C. Benson

BE IT REMEMBERED, That on this 30th 6th day of October NOVEMBER, 19 84

before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named

Elmer C. Benson and Joy Elaine Benson

known to me to be the identical individual described in and who executed the within instrument and acknowledged to me that they executed the same freely and voluntarily.

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

James R. Ueberberg  
Notary Public for OregonMy Commission expires 2-20-87

STATE OF OREGON,

County of \_\_\_\_\_

ss.

On this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_,

before me appeared \_\_\_\_\_ and

\_\_\_\_\_ both to me personally known, who being

duly sworn, did say that he, the said \_\_\_\_\_

is the \_\_\_\_\_ President, and he, the said \_\_\_\_\_

is the \_\_\_\_\_ Secretary \_\_\_\_\_ of \_\_\_\_\_ the within named Corporation, and that the seal affixed to said instrument is the corporate seal of said Corporation, and that the

said instrument was signed and sealed in behalf of said Corporation by authority of its Board of Directors, and \_\_\_\_\_

\_\_\_\_\_ and \_\_\_\_\_ acknowledge said instrument to be the free act and deed of said Corporation.

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

Notary Public for Oregon.

My Commission expires \_\_\_\_\_

ACCEPTED BY TRANSAMERICA FINANCIAL SERVICES

BY: \_\_\_\_\_

Title: \_\_\_\_\_

BY: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF CALIFORNIA,

County of \_\_\_\_\_

ss.

On this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_,

\_\_\_\_\_ and

before me appeared \_\_\_\_\_ both to me personally known, who being

duly sworn, did say that he, the said \_\_\_\_\_

is the \_\_\_\_\_ President, and he, the said \_\_\_\_\_

is the \_\_\_\_\_ Secretary \_\_\_\_\_ of \_\_\_\_\_ the within named Corporation, and that the seal affixed to said instrument is the corporate seal of said Corporation, and that the

said instrument was signed and sealed in behalf of said Corporation by authority of its Board of Directors, and \_\_\_\_\_

\_\_\_\_\_ and \_\_\_\_\_ acknowledge said instrument to be the free act and deed of said Corporation.

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

Notary Public for California

Commission expires \_\_\_\_\_

## ESTOPPEL AFFIDAVIT

18925

State of Oregon  
 County of Klamath } ss.

Elmer C. Benson and Joy Elaine Benson, being first duly sworn,  
 each for himself and herself, depose and say:

That they are the identical parties who made, executed, and delivered that certain deed to Transamerica Financial Services dated June 15, 1982, conveying the following described property:

The Westerly rectangular 11.5 feet of Lot 4 and all of Lot 5, Block 14,  
 FIRST ADDITION TO THE CITY OF KLAMATH FALLS, in the County of Klamath,  
 State of Oregon.

That affiants now are, and at all times herein mentioned were, husband and wife:

That the aforesaid deed is intended to be and is an absolute conveyance of the title to the premises to the grantee named therein, and was not and is not now intended as a mortgage, trust conveyance, or security of any kind; that it was the intention of affiants as grantors in the deed to convey, and by the deed these affiants did convey, to the grantee therein all their right, title, and interest absolutely in and to the premises; that possession of the premises has been surrendered to the grantee;

That in the execution and delivery of the deed, affiants were not acting under any misapprehension as to the effect thereof, and acted freely and voluntarily and were not acting under coercion or duress;

That the consideration for the deed was and is payment to affiants of the sum of \$ 34,697.00 by grantee, and the full cancellation of all debts, obligations, costs, and charges secured by that certain deed of trust heretofore existing on the property executed by Elmer C. Benson and Joy Elaine Benson, as trustee, for Transamerica Title Company, Services, 707 Main St., Klamath Falls, OR 97601, as beneficiary, dated June 15, 1982, and recorded in Book M-82, Page 7436, Official Records of Klamath County, State of Oregon and the reconveyance of the property under the deed of trust; that at the time of making the deed affiants believed and now believe that the aforesaid consideration therefor represents the fair value of the property so deeded;

This affidavit is made for the protection and benefit of the grantee in the deed, his successors and assigns, and all other parties hereafter dealing with or who may acquire an interest in the property herein described, and particularly for the benefit of Aspen Title Company, which is about to insure the title to the property in reliance thereon, and any other title company that may hereafter insure the title to the property;

That affiants, and each of them, will testify, declare, depose, or certify before any competent tribunal, officer, or person, in any case now pending or that may hereafter be instituted, to the truth of the particular facts hereinabove set forth.

Subscribed and sworn to before me this 6 day of November, 1984,  
Jane R. Hurling, Notary Public in and for said state

Joy C. Benson  
Elmer C. Benson

## EXHIBIT "A"

"This deed is an absolute conveyance, the grantor having sold the land to the grantee for a fair and adequate consideration, the consideration, in addition to that above recited, being full satisfaction of all obligations secured by the trust deed executed by Elmer C. Benson and Joy Elaine Benson to Transamerica Title Company as Trustee recorded in Book M-82, page 7436, Official Records of Klamath County, State of Oregon.

Grantor declares that this conveyance is freely and fairly made, and that there are no agreements, oral or written, other than this deed between grantor and grantee with respect to the land."

Joy C. Benson  
Elmer C. Benson

Dated this 6 day of November ~~October~~, 1984.

James R. Hurling  
 Notary Public  
 My Commission Expires 2-20-87

Return TO  
 TA FINANCIAL  
 Box 1269  
 KFO 97601

STATE OF OREGON, )  
 County of Klamath )  
 Filed for record at request of

on this 7th day of November, D. 19 84  
 at 3:38 o'clock P M, and duly  
 recorded in Vol. M84 of Deeds  
 Page 18923

**EVELYN BIEHN**, County Clerk

By Pam Smith Deputy

Fee 16.00 Index: \$1.00