

OC

51872

TRUST DEED

Vol. 1185 Page 12508

THIS TRUST DEED, made this 1st day of August, 1985, between IRA S. ELLIOTT and LUCILLE L. ELLIOTT, husband and wife

as Grantor, ASPEN TITLE & ESCROW, INC., an Oregon Corporation
FRANK WATKINS and SHERAL A. WATKINS, husband and wife with full rights of survivorship

as Beneficiary,

WITNESSETH:

Grantor irrevocably grants, bargains, sells and conveys to trustee in trust, with power of sale, the property in Klamath County, Oregon, described as:

Lot 8, Block 38, FIRST ADDITION TO THE CITY OF KLAMATH FALLS, in the County of Klamath,
State of Oregon.

THIS TRUST DEED IS AN ALL-INCLUSIVE TRUST DEED AND IS BEING RECORDED THIRD AND JUNIOR TO A FIRST TRUST DEED IN FAVOR OF MARIETA J. O'NEAL AND A SECOND TRUST DEED IN FAVOR OF DONALD H. COLVIN AND GLENDA S. COLVIN.

SEE EXHIBIT "A" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.

together with all and singular the tenements, hereditaments and appurtenances and all other rights thereunto belonging or in anywise now or hereafter appertaining, and the rents, issues and profits thereof and 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 TWENTY SEVEN THOUSAND SEVEN HUNDRED AND NO/100 (\$27,700.00) _____

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 at maturity of Note _____, 19____.

The date of maturity of the debt secured by this instrument is the date, stated above, on which the final installment of said note becomes due and payable. 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.

The above described real property is not currently used for agricultural, timber or grazing purposes.

1. To protect, preserve and maintain said property in good condition and repair; not to remove or demolish any building or improvement thereon; 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 therefor.

3. To comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting said property; if the beneficiary so requests, to join in executing such financing statements pursuant to the Uniform Commercial Code as the beneficiary may require and to pay for filing same in the proper public office or offices, as well as the cost of all lien searches made by filing officers or searching agencies as may be deemed desirable by the beneficiary.

4. 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 beneficiaries may from time to time require, in companies acceptable to the beneficiary, with loss payable to _____, written in policies of insurance shall be delivered to the beneficiary as soon as insured; all 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 said buildings, the beneficiary may procure the same at any time and for any amount. The amount collected under any fire or other insurance policy may be applied to the 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 not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

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 premises, the grantor shall pay the taxes, assessments and other charges become past due or become due and promptly deliver receipts therefor to beneficiary; should the grantor fail to pay the payment of any taxes, assessments, insurance premiums, liens or other charges payable by grantor, either by direct payment or by providing beneficiary with funds from which to make such payment, beneficiary may, at its option, make payment on behalf of, and the amount so paid, with interest at the rate set forth in the note secured hereby, together with the obligations described in paragraphs 6 and 7 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 payments, with interest as aforesaid, the promisor, hereinafter described, as well as the grantor, shall be bound to the extent of the property herein bound for the payment of the obligation herein described, and all such payments shall be immediately due and payable without notice, and the nonpayment of any such sum 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.

6. 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 and trustee's and attorney's fees actually incurred.

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 be named, or in any suit for the foreclosure of this deed, to pay all costs and expenses, including attorney's fees, and the beneficiary's or trustee's attorney's fees; the amount of attorney's fees and the beneficiary's or trustee's attorney's fees shall be fixed by the trial court and in the event of an appeal from the trial court or the decree of the trial court, grantor further agrees to pay such sum as the attorney's fees may be found to be reasonable as the beneficiary's or trustee's attorney's fees on such appeal.

It is mutually agreed that:

It is mutually agreed that:

8. In the event that any portion or all of said property shall be taken under the right of eminent domain or condemnation, beneficiary shall have the right, if it so effects, to require that all or any portion of the proceeds as compensation for such taking, which are in excess of the amount required to pay all reasonable costs, expenses and attorney's fees necessarily paid or incurred by plaintiff, be paid to beneficiary and not to the estate of said decedent. It is further agreed that said proceeds, both in the trial and appellate courts, necessarily paid or incurred by beneficiary in such proceedings, and the balance applied upon the indebtedness of said estate, shall be paid to beneficiary. It is further agreed, at its own expense, to take such actions and execute such instruments as may be deemed necessary in obtaining such compensation, promptly upon beneficiary's request.

9. At any time and from time to time upon written request of beneficiary, payment of its fees and presentation of this deed and the note for endorsement (in case of full reconveyances, for cancellation), without affecting the liability of any person for the payment of the indebtedness, 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 or charge thereof; (d) reconvey, without warranty, all 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 fees for any of the services mentioned in this paragraph shall be not less than \$5.

10. 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 priority of any 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 principal and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees upon the indebtedness secured hereby, and in such order as beneficiary may determine.

11. 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.

12. Upon default by grantor in payment of any indebtedness secured hereon or in its performance of any agreement hereunder, the beneficiary may declare all sums due and hereby immediately due and payable. In such an event the beneficiary shall have the right to proceed to foreclose this trust deed in equity as a mortgage or direct the sale of this trust deed by advertisement and sale. In the latter event the beneficiary shall cause to be recorded his written notice of default and his election to sell. The sale shall be conducted by a trustee who shall satisfy the obligation secured hereupon by the real property to satisfy the obligation secured hereof as then required by law and in accordance with the time and place of sale, give notice in the manner provided in ORS 86.735 to 86.795

13. After the trustee has commenced foreclosure by advertisement and sale, and at any time prior to 5 days before the date the trustee conducts the sale, the trustee may, at its option, cure the default of the beneficiary or any other person so privileged by ORS 86.753, may cure sums secured by the trust if the default consists of a failure to pay, when due, entire amount due at the time of the default, or other than such portion as would not then be due had no default occurred. And if the default that is capable of being cured may be cured by tendering the performance required under the obligation or trust deed. In any case, in addition to curing the default, the person effecting the cure shall pay to the beneficiary all costs and expenses actually incurred in enforcing the obligation of the trust deed together with trustee's and attorney's fees not exceeding the amounts provided by law.

14. Otherwise, the sale shall be held on the date and at the time and place designated in the notice of sale, or the time and place afterwards provided by law. The trustee may, at the time and place at which said sale may be held, sell the property in one or more parcels, or the whole thereof, in one or more parcels or in separate parcels and shall sell the parcel or parcels at auction or by private sale, or by any other method, and shall deliver to the purchaser its deed, payable at the time of sale. Trustee conveying the property so sold, but without any covenant or warranty, expressly conveying the property so sold, and without any matters of fact shall be conclusive proof of the truthfulness thereof. The trustee, in conveying the property so sold, shall be bound to the grantor and beneficiary, may purchase at the sale, and shall be bound to the

15. When trustee sells pursuant to the powers provided herein, trustee shall apply the proceeds of sale to payment of (1) the expenses of sale, attorney, (2) to the obligation secured by the trust deed, (3) to all persons having claims and liens subsequent to the interest of the trustee in the trust surplus, as their interests 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.

18. 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 appointment and conveyance to the successor trustee, the latter shall be vested with all title, powers, duties and responsibilities of the trustee hereunder. The duties conferred and substitution shall be made by written instrument executed by beneficiary. The instrument so executed shall be recorded in the mortgage records of the county or counties in which the property situated, shall be conclusive proof of proper appointment of the successor trustee.

17. Trustee accepts this trust when this deed, duly executed and acknowledged is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other deed of trust or of any action or proceeding in which grantor, beneficiary or trustee shall be a party unless such action or proceeding is brought by trustee.

NOTE: The Trust Deed Act provides that the trustee hereunder must be either an attorney, who is an active member of the Oregon State Bar, a bank, trust company or savings and loan association authorized to do business under the laws of Oregon or the United States, a title insurance company authorized to insure title to real property of this state, its subsidiaries, affiliates, agents or branches; the United States or any agency thereof, or an escrow agent licensed under ORS 696.505 to 696.585.

The grantor covenants and agrees to and with the beneficiary and those claiming under him, that he is lawfully seized in fee simple of said described real property and has a valid, unencumbered title thereto and that he 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 this trust deed are:
(a)* primarily for grantor's personal, family, household or agricultural purposes (see Important Notice below).
XXXXXX
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 hereby, whether or not named as a beneficiary herein. In construing this deed and whenever the context so requires, the masculine gender includes the feminine and the neuter, and the singular number includes the plural.

IN WITNESS WHEREOF, said 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, if this instrument is to be a FIRST lien to finance the purchase of a dwelling, use Stevens-Ness Form No. 1305 or equivalent; if this instrument is NOT to be a first lien, or is not to finance the purchase of a dwelling use Stevens-Ness Form No. 1306, or equivalent. If compliance with the Act is not required, disregard this notice.
(If the signer of the above is a corporation, use the form of acknowledgment opposite.)

Ira S. Elliott
Lucille L. Elliott

STATE OF OREGON,

County of Klamath } ss.
August 7, 19 85

Personally appeared the above named
Ira S. Elliott and Lucille L. Elliott

and acknowledged the foregoing instrument to be their voluntary act and deed.
Notary Public for Oregon

My commission expires: 6-21-88

STATE OF OREGON, County of _____) ss.

Personally appeared _____, 19 _____, and _____, who, each being first

duly sworn, did say that the former is the _____ president and that the latter is the _____ secretary of _____

a corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that the instrument was signed and sealed in behalf of said corporation by authority of its board of directors; and each of them acknowledged said instrument to be its voluntary act and deed.
Before me:

Notary Public for Oregon

My commission expires:

(OFFICIAL SEAL)

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 trust deed. All sums secured by said trust deed have been fully paid and satisfied. You hereby are directed, on payment to you of any sums owing to you under the terms of said trust deed or pursuant to statute, to cancel all evidences of indebtedness secured by said trust deed (which are delivered to you herewith together with said trust deed) and to reconvey, without warranty, to the parties designated by the terms of said trust deed the estate now held by you under the same. Mail reconveyance and documents to _____, 19 _____.

DATED: _____, 19 _____.

Do not lose or destroy this Trust Deed OR THE NOTE which it secures. Both must be delivered to the trustee for cancellation before reconveyance will be made.

TRUST DEED
(FORM No. 861)

STEVENS-NESS LAW PUB. CO., PORTLAND, ORE.

Ira S. Elliott
Lucille L. Elliott
Frank Watkins
Sheral A. Watkins

Grantor

Beneficiary

AFTER RECORDING RETURN TO

ASPEN TITLE & ESCROW, INC.

SPACE RESERVED
FOR
RECORDER'S USE

STATE OF OREGON,
County of _____) ss.

I certify that the within instrument was received for record on the _____ day of _____, 19 _____, at _____ o'clock _____ M., and recorded in book/reel/volume No. _____ on page _____ or as fee/file/instrument/microfilm/reception No. _____ Record of Mortgages of said County.
Witness my hand and seal of County affixed.

NAME _____ TITLE _____
By _____ Deputy

EXHIBIT "A"

THIS TRUST DEED IS AN "ALL-INCLUSIVE TRUST DEED" AND IS THIRD AND SUBORDINATE TO THE FIRST TRUST DEED NOW OF RECORD DATED SEPTEMBER 25, 1984 AND RECORDED OCTOBER 4, 1984 IN BOOK M-84 AT PAGE 17113, IN FAVOR OF MARIETA J. O'NEAL, AS BENEFICIARY, AND TO THE SECOND TRUST DEED NOW OF RECORD DATED MAY 22, 1985, AND RECORDED JUNE 17, 1985 IN BOOK M-85 AT PAGE 9091, IN FAVOR OF DONALD H. COLVIN AND GLENDA S. COLVIN, HUSBAND AND WIFE, AS BENEFICIARY, ALL OFFICIAL RECORDS OF KLAMATH COUNTY, OREGON, WHICH TRUST DEEDS SECURE THE PAYMENT OF THE NOTES THEREIN MENTIONED. FRANK WATKINS AND SHERAL A. WATKINS, BENEFICIARY HEREIN AGREE TO PAY, WHEN DUE, ALL PAYMENTS DUE UPON THE SAID PROMISSORY NOTES IN FAVOR OF MARIETA J. O'NEAL AND DONALD H. COLVIN AND GLENDA S. COLVIN, AND WILL SAVE GRANTORS HEREIN, IRA S. ELLIOTT AND LUCILLE L. ELLIOTT, HUSBAND AND WIFE, HARMLESS THEREFROM. SHOULD THE SAID BENEFICIARY HEREIN DEFAULT IN MAKING ANY PAYMENTS DUE UPON SAID PRIOR NOTES AND TRUST DEEDS, GRANTOR HEREIN MAY MAKE SAID DELINQUENT PAYMENTS AND ANY SUMS SO PAID BY GRANTOR HEREIN SHALL THEN BE CREDITED UPON THE SUMS NEXT TO BECOME DUE UPON THE NOTE SECURED BY THIS TRUST DEED.

*I. E.
L. Elliott*

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of _____ the _____ 7th day
of August A.D., 19 85 at 3:51 o'clock P M., and duly recorded in Vol. M85
of Mortgages on Page 12508

FEE \$13.00

Evelyn Biehn County Clerk
By *Don Smith*