

93922

K-41001  
TRUST DEED

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THIS TRUST DEED, made this 3rd day of November, 1988, between

EDWARD G. TOLLESON AND CHARLOTTE L. TOLLESON, husband and wife

EDWARD G. TOLLESON AND CHARLOTTE E. TOLLESON,  
as Grantor, KLAMATH COUNTY TITLE COMPANY, as Trustee, and

ALBERT W. SCHMECK AND VADA H. SCHMECK, husband and wife

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: A parcel of land situated in the 22nd Range, 2 E. 1/4, 34 N. 1/4, 12 W. more particularly

County, Oregon, described as: A parcel of land situated in the NW $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 7, Township 38 South, Range 9, E.W.M., more particularly described as follows: Beginning at a point on the Westerly right-of-way line of the New Dalles-California Highway which bears S. 89°49' E. a distance of 799.0 feet and S. 11°36' E. along said Westerly right-of-way line a distance of 306.29 feet from the West one-quarter corner of said Section 7; thence continuing S. 11°36' E. along said right-of-way line a distance of 200.0 feet to the Northeasterly corner of parcel conveyed to Van's Motel by deed Volume 300, page 270, records of Klamath County, Oregon; thence S. 78°24' W. at right angles to said Highway a distance of 200.0 feet to a point; thence N. 11°36' W., parallel with said Highway right-of-way, a distance of 200.0 feet; thence N. 78°24' E. a distance of 200.0 feet to the point of beginning.

N. 78°24' E. a distance of 200.0 feet to the point of beginning,  
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 connec-  
tion with said real estate.

FOR THE PURPOSE OF SECURING PERFORMANCE of each agreement of grantor herein contained and payment of the sum of TWENTY TWO THOUSAND AND NO/100 Dollars with interest thereon according to the terms of a promissory

sum of TWENTY TWO THOUSAND AND NO/100 Dollars, with interest thereon according to the terms of a promissory 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, 19    .

note of even date herewith, payable to at maturity, 19  ,  
not sooner paid, to be due and payable at maturity, on which the final installment of said note  
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.

To protect the security of this trust deed, grantor agrees:

To protect the security of this trust deed, grantor agrees:

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

by filing officers or searching agencies, and the beneficiary.

4. To provide and continuously maintain insurance on the buildings now and hereafter erected on the said premises against loss or damage by fire and other hazards as the beneficiary may from time to time require, in an amount not less than insurable value of the buildings, written in an 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 said 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 shall procure the same at grantor's expense. The amount collected under any fire or other insurance policy may be applied by the beneficiary on any indebtedness secured hereby and in such amount so collected, or 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.

5. To keep the above premises free from construction liens and to pay all taxes, assessments and other charges that may be levied or assessed upon and against said real property before any part of such taxes, assessments and other charges become past due or delinquent and, promptly delinquent, to satisfy therefor, the grantor shall, at the option of the grantor, at any time, make payment thereof to the beneficiary; should the grantor fail to make payments payable by grantor, either in cash or by check, the beneficiary, with funds with which to make payment or by providing for the payment of the obligation hereinafter described, shall, at the option of the beneficiary, at any time, make such payment, the beneficiary, at its option, make payment thereof, at the rate set forth in the note secured hereby, together with the interest described in paragraphs 6 and 7 of this trust deed, and the amount of such interest shall be added to the debt secured by this trust deed, without waiver of any rights arising from the provisions of any of the covenants hereof and for such payments, with interest as aforesaid, the property hereinbefore described, as well as the grantor, shall be bound to the same extent that they are bound to the payment of the obligation hereinbefore described, and all such payments shall be immediately due and payable without notice, and all such payments thereof shall, at the option of the beneficiary, be made by check or by cash payment, and the beneficiary shall be authorized to render all sums secured by this trust deed immediately due and payable and to foreclose the lien of this trust deed.

6. To pay all costs, fees and expenses of this trust including the costs 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, and defend any action or proceeding purporting to

7. 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 or action or proceeding in which the beneficiary or trustee may appear, including any suit for the foreclosure of this deed, to pay all costs and expenses, including evidence of title and the beneficiary's or trustee's attorney's fees; the amount of attorney's fees mentioned in this paragraph 7 in all cases shall be fixed by the trial court and in the event of an appeal from any judgment or decree of the trial court, grantor further agrees to pay such sum as the appellate court shall adjudge 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 elects, to require that any or any portion of the monies payable as compensation or damages, which are in excess of the amount required for reasonable costs, expenses and attorney's fees necessarily paid or incurred by grantor in such proceedings, shall be paid to beneficiary and attorney's fees, applied by it first upon such proceedings, necessarily paid or incurred by beneficiary in the appellate courts, and the balance applied upon the such actions secured hereby; and grantor agrees, at its own expense, to take the such actions and execute such instruments as beneficiary may deem necessary in obtaining such compensation or damages for 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 thereon; (d) reconvey, without warranty, all or any part of the property. The grantee in any conveyance 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 acts 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 receiver to be appointed by a court, and by advertisement, cause the execution of this property to be secured, enter upon and take possession of said property, together with all its contents, and may sell the same, with interest thereon or any part thereof, in its own name sue or otherwise, and apply the same, issues and profits, including those past due and to become due, to the payment of all costs and expenses of operation and collection, including reasonable attorney's fees, and upon any indebtedness secured hereunder, 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 performance by grantor in payment of any indebtedness secured hereby or in the performance of any agreement hereunder, time being of the essence with respect to such payment and/or performance, the beneficiary may elect to sell all sums secured hereby immediately due and payable in such manner as the beneficiary at his election may proceed to foreclose this trust deed in equity as a mortgage or direct the trustee to pursue any other right or advertisement and sale, or may direct the trustee to exercise any such right or remedy, either at law or in equity, by advertisement and sale, the beneficiary or the beneficiary elects to foreclose by advertisement and sale, the beneficiary or the trustee shall execute and cause to be recorded his written notice of declaration and his election to sell the said described real property to satisfy the obligation and his election to foreclose thereon, the trustee shall fix the time and place of sale, 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.

notice thereof as then required by ORS 86.735 to 86.795.  
in the manner provided in ORS 86.735 to 86.795.

After the trustee has commenced foreclosure by advertisement and sale, and at any time prior to 5 days before the date the trust conducts the sale, the grantor or any other person so permitted by ORS 86.735, may cure the default or defaults. If no such deed, the default may be cured by paying the sums secured by the trust deed, the default may be cured by paying the entire amount due at the time of the cure other than such portion which would not then be due had no default occurred. Any other performance required under the trust deed may be cured by tendering the same. In addition to curing the default or obligation or trust debt, the grantor shall pay to the beneficiary all costs and expenses incurred by the trustee in enforcing the obligation of the trust deed together with trustee's and attorney's fees not exceeding the amounts provided by law.

The trustee shall be held on the date and at the time and

14. Otherwise, the sale shall be held on the date and at the time and by law. The trustee may sell said sale may place designated in the notice of sale. The trustee may sell said property either be postponed as provided in the notice of sale or the trustee may sell the property in separate parcels and shall sell the parcel or parcels in the manner and on the terms as required by law conveying the property to the highest bidder for cash, payable in full at the time of sale. The trustee shall deliver to the purchaser a deed in conformity with the requirements of law conveying the property to the purchaser without any covenant or warranty, express or implied. The recitals in the deed of any matters of fact shall be conclusively presumed to be the truthfulness thereof. The trustee, but including the purchaser at the sale.

15. When trustee shall purchase or cause to be purchased for the trust, powers provided herein, trustee shall apply the proceeds of the sale to payment of (1) the expenses of sale, including the cost of the compensation of the trustee and a reasonable charge by trustee for the services of the attorney, (2) to the obligation secured by the deed of the trustee in the trust having recorded liens subsequent to the deed of the grantor of the trust and (3) to the deed as his interest in the trust, in the order of their priority and (4) the balance, if any, to the grantor or to his successor in interest entitled to such interest.

**16.** 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 without conveyance to the successor trustee, the trustee herein vested with all title, powers and duties conferred upon the trustee herein named or appointed hereunder. Each such appointment by the beneficiary shall be made by written instrument which, if it is a beneficiary, and substitution shall be made by written instrument recorded in the county or counties in which, when recorded in the mortgage records, shall be conclusive proof of proper appointment of the proposed trustee.

17. Trustee accepts this trust when this deed, duly executed and acknowledged, made a public record as provided by law. Trustee hereby acknowledges to notify any party hereto of pending sale and of any other deed of trust or of any action or proceeding in which donor, beneficiary or trustee may 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 or household purposes (see Important Notice below),  
(b) for an organization, or (even if grantor is a natural person) are for business or commercial purposes.

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 use Stevens-Ness Form No. 1319, 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 acknowledgement opposite.)

Edward G. Tolleson  
EDWARD G. TOLLESON  
Charlotte L. Tolleson

CHARLOTTE L. TOLLESON

STATE OF OREGON  
County of Klamath } ss.  
This instrument was acknowledged before me on  
November 15, 1988, by  
Edward G. Tolleson and  
Charlotte L. Tolleson  
Duncan B. Bingham  
(SEAL) Notary Public for Oregon  
My commission expires: 12-19-88

STATE OF OREGON  
County of \_\_\_\_\_ } ss.  
This instrument was acknowledged before me on  
19\_\_\_\_, by \_\_\_\_\_  
as \_\_\_\_\_  
of \_\_\_\_\_  
Notary Public for Oregon  
My commission expires: \_\_\_\_\_ (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 \_\_\_\_\_

DATED: 19\_\_\_\_, at \_\_\_\_\_, Oregon.  
I, \_\_\_\_\_, a person of legal age, do hereby certify that the within instrument was received for record on the 16th day of \_\_\_\_\_, 1988, at 12:26 o'clock PM, and recorded in book/reel/volume No. M88 on page 19369 or as fee/file/instrument/microfilm/reception No. 93922, Record of Mortgages of said County.  
Witness my hand and seal of County affixed.  
Evelyn Biehn, County Clerk  
NAME \_\_\_\_\_ TITLE \_\_\_\_\_  
By \_\_\_\_\_ Deputy

TRUST DEED

(FORM No. 881)  
STEVENS-NESS LAW PUBL. CO. PORTLAND, ORE.

Grantor  
Beneficiary  
AFTER RECORDING RETURN TO  
KTC

STATE OF OREGON  
County of Klamath } ss.  
I certify that the within instrument was received for record on the 16th day of \_\_\_\_\_, 1988, at 12:26 o'clock PM, and recorded in book/reel/volume No. M88 on page 19369 or as fee/file/instrument/microfilm/reception No. 93922, Record of Mortgages of said County.  
Witness my hand and seal of County affixed.  
Evelyn Biehn, County Clerk  
NAME \_\_\_\_\_ TITLE \_\_\_\_\_  
By \_\_\_\_\_ Deputy

Fee \$13.00