

4204

## TRUST DEED

Vol. m89 Page 15624



THIS TRUST DEED, made this 16th day of August, 1989, between  
ROBERT LOPEZ and DIANA LEA LOPEZ, Husband and Wife

as Grantor, ASPEN TITLE & ESCROW, INC., \_\_\_\_\_, as Trustee, and  
MICHAEL S. GARRETT and JERRIE GARRETT, 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:

SEE ATTACHED EXHIBIT "A"

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 Three Thousand Three Hundred Four and 70/100-----

sum of three thousand three hundred and forty four (\$3,304.70) 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 of Note, 1999.

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; 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 law 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 new or hereafter erected on the said premises against loss or damage by fire and other causes, whether or not the beneficiary may from time to time require, in any amount not less than \$ insurable value 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 or for any reason or process of law shall fail to deliver said policies to the beneficiary within fifteen days prior to the expiration of the term of insurance now or hereafter placed on said buildings, the beneficiary may procure the same at grantor's expense. The amounts collected under any fire or other insurance policy may be applied by the beneficiary upon any indebtedness secured hereby and in such order as the beneficiary may determine, or at option of the beneficiary, may be collected, or any part thereof, may be paid over to grantor. Such application or release shall not cure or waive any default or notice of default heretofore or invalidate any action done pursuant to such notice.

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, as part of such taxes, assessments and other charges, shall, from time to time, deliver to the beneficiary, or the beneficiary's agent, the following: (a) receipts therefor to beneficiary; should the grantor fail to make payment of any taxes, assessments, insurance premiums, liens or other charges payable by the grantor, either by direct payment or by providing beneficiary with cash, make payment thereof, and the amount of such payment, with interest at its option, make payment thereof, 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 at the grantor's option, shall be bound to the beneficiary hereinafter described; (b) should the grantor, shall be bound to the beneficiary hereinafter described, shall be bound to the beneficiary hereinafter described, and all such payments shall be immediately due and payable without notice, and the nonpayment thereof shall, as 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 the 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.

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.

[illegible]

*It is mutually agreed that:*

3. In the event that any portion or all of said property shall be taken under the right of eminent domain and expropriation, beneficiary shall have the right, at his sole discretion, to require that all or any portion of the monies payable 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 grantor in such proceedings, shall be paid to said beneficiary, to be applied by it first upon any such costs and expenses and attorney's fees, and then, in the event of any surplus, to the courts, necessarily paid or incurred by beneficiary in such proceedings, and the balance applied upon the indebtedness secured hereby; and grantor agrees, at its own expense, to take such actions and execute such instruments as shall be necessary in obtaining such com-

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 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 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 by itself or by a receiver to be appointed by the court, without regard to the adequacy 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 rents, issues and profits, including those past due and unpaid, and apply the same to the payment of the principal and interest on the indebtedness, less costs and expenses of operation and of the reasonable compensation of attorney's fees used in the collection of 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 notice by grantor in payment of any indebtedness secured hereby or in his performance of any agreement hereunder, time being of the essence, the said sums secured hereby immediately due and payable. In such an event the beneficiary at his election may proceed to foreclose this trust deed in equity as a mortgage or direct the trustee to do so. In such trust deed no advertisement and sale, or any other remedy, which the beneficiary may have. In the event 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 default and his election to sell the said described real property to the public and place a sale, give notice thereof to the public and cause the same to be sold by law and proceed to foreclose this trust deed in equity as a mortgage or direct the trustee to do so.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands and the names of the parties 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 3 days before the date the trustee conducts the sale, the grantor or any party claiming an interest so privileged by ORS 86.753, may cure the default or defaults. If the default consists of a failure to pay, when due, any amounts 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 as would not then be due had no default occurred. Any other default that is capable of being cured may be cured by tendering the permanent amount due under the obligation or trust deed. In any case, in addition to curing the default or defaults, the person electing to 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 to which said sale may be postponed as provided by law. The trustee may sell said property either in one parcel or in separate parcels and may pay the proceeds of the sale to the purchaser in cash or in installments, payable at the time of sale. Trustee shall deliver to the purchaser its 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 or conditions, except as provided in the conditions thereof, shall be conclusively presumed to be true. The senior and beneficiary may purchase at the sale.

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, including the compensation of the trustee and a reasonable charge by trustee's attorney, (2) 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 their priority and (4) the surplus, if any, to the grantor or to his successor in interest entitled to such surplus.

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, and without conveyance to the successor trustee, the latter shall be vested with all title, powers and duties conferred upon any trustee herein named or appointed hereunder. Each such appointment and substitution shall be made by written instrument by the beneficiary in which, when recorded, the mortgage records of the county or counties in which the property is 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 676.505 to 676.585.

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-Noss 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.)

STATE OF OREGON,

County of Klamath

This instrument was acknowledged before me on

August 22, 1989, by

Robert Lopez and

Diana Lea Lopez

Marlene P. Addington  
Notary Public for Oregon

(SEAL)

My commission expires: 3-22-93

STATE OF OREGON,

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

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 in 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\_\_\_\_

Beneficiary

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. 881)

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

Grantor

Beneficiary

AFTER RECORDING RETURN TO

ASPEN TITLE & ESCROW  
600 Main Street

SPACE RESERVED  
FOR  
RECORDER'S USE

STATE OF OREGON,

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

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

Beginning at a point in the center line of Morning Side Lane, a 40 foot roadway, from which the Northwestern corner of the Southwest quarter of the Northwest quarter of Section 21, Township 39 South, Range 9 East of the Willamette Meridian, in the County of Klamath, State of Oregon, bears South 88 degrees 50 1/2' West along the center line of said Morning Side Lane, 955 feet and North 0 degrees 10' East along the Westerly boundary of said Section 21, 858.00 feet; running thence South 0 degrees 10' West 475.8 feet, more or less, to a point in the Northerly boundary of the right of way of the United States Reclamation Service Project #1-N Drain; thence North 88 degrees 48' East, along said right of way boundary line 97 feet; thence Southeasterly along said right of way boundary line to its intersection with the South line of the SW 1/4 NW 1/4 of said Section 21; thence North 88 degrees 48' East along the Southerly boundary of said SW 1/4 NW 1/4, 368 feet; thence North 0 degrees 10' East, 505.2 feet, more or less, to a point in the center line of Morning Side Lane; thence South 88 degrees 50 1/2' West along said center line 480 feet, more or less, to the point of beginning.

SAVING AND EXCEPTING the right of way for Morningside Lane.

CODE 164 MAP 3909-21BO TL 2600

STATE OF OREGON: COUNTY OF KLAMATH: \$3.

Filed for record at request of Aspen Title Co. the 22nd day  
of Aug. A.D., 19 89 at 11:10 o'clock AM., and duly recorded in Vol. M89,  
of Mortgages on Page 15624.

FEE \$18.00

Evelyn Biehn County Clerk

By Daniel Miller