

12577

TRUST DEED

Vol. 190 Page 5181

THIS TRUST DEED, made this 5 day of March 1990, between  
 RONALD R. LYALL AND TRIA P. LYALL, husband and wife,

as Grantor, ASPEN TITLE & ESCROW, INC.

WILLIAM S. OPPELT AND FLORENCE R. OPPELT, husband and wife with full rights  
 as Beneficiary, of survivorship,

## 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 LEGAL DESCRIPTION MARKED EXHIBIT "A" ATTACHED HERETO AND BY THIS  
 REFERENCE MADE A PART HEREOF AS THOUGH FULLY SET FORTH HEREIN...

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 THREE THOUSAND AND NO/100--  
 \$23,000.00--

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, 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.

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, condi-  
 tions and restrictions affecting said property; if the beneficiary so requests,  
 to join in executing such financing statements pursuant to the Uniform Commer-  
 cial 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 the beneficiary may from time to time require, in  
 an 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 any reason to procure any such insurance and to  
 deliver said policies to the beneficiary at least fifteen days prior to the expira-  
 tion of any policy of insurance now or hereafter placed on said 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 benefi-  
 ciary 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.

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 property before any part of such taxes, assessments and other  
 charges become past due or delinquent and promptly deliver receipts therefor  
 to beneficiary; should the grantor fail to make payment of any taxes, assess-  
 ments, insurance premiums, liens or other charges payable by grantor, either  
 by direct payment or by providing beneficiary with funds with which to  
 make such payment, beneficiary may, at its option, make payment thereof,  
 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 property  
 hereinbefore described, as well as the grantor, shall be bound to the  
 same extent that they are bound for the payment of the obligation herein  
 described, and all such payments shall be immediately due and payable with-  
 out notice, and the nonpayment thereof 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.

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,  
 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, in-  
 cluding 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 ap-  
 pellate court shall adjudge reasonable as the beneficiary's or trustee's attor-  
 ney's fees on such appeal.

## 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 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 beneficiary, and  
 applied by it first upon any reasonable costs and expense and attorney's fees  
 both in the trial and appellate courts, necessarily paid or incurred by benefi-  
 ciary in such proceedings, and the balance applied upon the indebtedness  
 secured hereby; and grantor agrees, at its own expense, to take such action  
 and execute such instruments as shall be necessary in obtaining such com-  
 pensation, promptly upon beneficiary's request.

9. At any time and from time to time upon written request of benefi-  
 ciary, payment of its fees and presentation of this deed and the note for  
 enforcement (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 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 ap-  
 pointed by a court, and without regard to the adequacy of any security for  
 the indebtedness hereby secured, enter upon and take possession of said prop-  
 erty 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,  
 less costs and expenses of operation and collection, including reasonable attor-  
 ney's fees upon any indebtedness secured hereby, and in such order as benefi-  
 ciary 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  
 hereby or in his performance of any agreement hereunder, time being of the  
 essence with respect to such payment and/or performance, the beneficiary may  
 declare all sums secured hereby immediately due and payable. In such an  
 event the beneficiary at its election may proceed to foreclose this trust deed  
 in equity as a mortgage or direct the trustee to foreclose this trust deed by  
 advertisement and sale, or may direct the trustee to pursue any other right or  
 remedy, either at law or in equity, 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 satisfy the obligation  
 secured hereby whereupon 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.

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 grantor or any other person so privileged by ORS 86.753, may cure  
 the default or defaults. If the default consists of a failure to pay, when due,  
 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 as would  
 have then been due had no default occurred. Any other 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 or  
 defaults, 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 to which said sale may  
 be postponed as provided by law. The trustee may sell said sale may be  
 in one parcel or in separate parcels and shall sell the parcel or parcels at  
 auction to the highest bidder for cash, 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 im-  
 plied. The recitals in the deed of any matters of fact shall be conclusive proof  
 of the truthfulness thereof. Any person, excluding the trustee, but including  
 the grantor 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, in-  
 cluding the compensation of the trustee and a reasonable charge by trustee's  
 attorney, (2) to 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 records of their priority and (4) the  
 surplus, if any, to the grantor or to his successor or interest entitled to such  
 surplus.

16. Beneficiary may from time to time appoint a successor or success-  
 ors to any trustee named herein or to any successor trustee appointed here-  
 under. 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 a written instrument executed by beneficiary,  
 which, when recorded in 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 and 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 subdivisions, affiliates, agents or branches, the United States or any agency thereof, or an escrow agent licensed under ORS 695.505 to 695.555.

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.)

STATE OF ~~OREGON~~ CALIFORNIA } ss.  
County of SANTA CRUZ }

This instrument was acknowledged before me on  
MARCH 16, 1990, by

RONALD R. LYALL  
TRIA P. LYALL

Romona Lomax  
Notary Public for OREGON

My commission expires: 9/4/92

STATE OF OREGON, } ss.

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

This instrument was acknowledged before me on \_\_\_\_\_

19\_\_\_\_, by \_\_\_\_\_

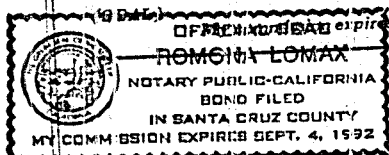
as \_\_\_\_\_

of \_\_\_\_\_

Notary Public for Oregon

(SEAL)

My commission expires: \_\_\_\_\_



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\_\_\_\_

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

Grantor

Beneficiary

AFTER RECORDING RETURN TO

SPACE RESERVED  
FOR  
RECORDER'S USE

STATE OF OREGON, } ss.

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

## EXHIBIT "A"

## PARCEL 1:

A tract of land situated in the NE1/4 of Section 3, Township 36 South, Range 6 East of the Willamette Meridian, in the County of Klamath, State of Oregon, more particularly described as follows:

Beginning at the Northwest corner of the tract of land conveyed to Robert A. Scott et ux., by deed, dated November 6, 1965, and recorded November 22, 1965, in Volume M-65 at Page 3934 of Klamath County, Oregon Deed Records, which said corner is situated on the East bank of the artificially constructed water channel; thence running on the East bank of said water channel North 20 degrees 46 minutes West a distance of 51.53 feet to a point; thence continuing along the East bank of said water channel North 80 degrees 46 minutes East a distance of 15.30 feet to a point; thence continuing along the East bank of said water channel North 20 degrees 46 minutes West a distance of 25.00 feet to a point; thence leaving said water channel and running North 81 degrees 10 minutes East a distance of 106.60 feet, more or less, to the point where the center line of the private 20 foot wide roadway, which is more particularly described in the deed to John L. Gross, et ux., dated October 12, 1966, and recorded October 20, 1966, in Volume M-66 at Page 10168 of Klamath County, Oregon Deed Records intersects the South boundary line of Harriman Park; thence running on the center line of said private 20 foot wide roadway South 12 degrees 04 minutes East a distance of 72.5 feet more or less, to the Northeast corner of said tract of land conveyed to Robert A. Scott, et ux., thence South 80 degrees 40 minutes West along the North line of said Scott tract a distance of 100 feet, more or less, to the point of beginning.

Tax Acct. No.: 008 - 3606-3AD-2100      Key No.: 309311

## PARCEL 2:

The following described real property situate in the County of Klamath, State of Oregon:

That portion of Tract A of Harriman Park, more particularly described as follows:

Beginning at a one-half inch iron pin which is situated on the center line of the private 20 foot wide roadway, more particularly described in the Deed to John L. Gross et ux., recorded in Volume M-66 at Page 10168 of Klamath County, Oregon, Deed Records, South 12 degrees 04 minutes East a distance of 25.94 feet, more or less, from the point where said roadway

Continued on next page

## EXHIBIT "A" CONTINUED

center line intersects the Southerly terminus of Dugout Lane, said point of intersection being South 50 degrees 14 minutes West a distance of 34.12 feet the Southwest corner of Lot 1 of Harriman Park; thence South 12 degrees 04 minutes East along said center line of said private roadway a distance of 111.69 feet, more or less, to the Southeast corner of the tract of land conveyed to Dave Jones by Deeds recorded in Volume M-63 at Page 7521 of Klamath County, Oregon Deed Records; which said point is also the Northeast corner of the Servient Tenement described in the Easement recorded in Volume M-68 at Page 8442 of Klamath County, Oregon Deed Records; thence South 81 degrees 10 minutes West along the South line of said Jones Tract, which said line is also the North line of said Servient Tenement to the point where the Southerly boundary line of Harriman Park intersects the East bank of the artificially constructed water channel, which said point is the Southwest corner of said Jones Tract and the Northwest corner of said Servient Tenement; thence North 39 degrees 03 minutes 30 seconds West, along the East bank of said water channel a distance of 44.23 feet, more or less, to a five eights inch iron pin; thence leaving said East bank of said water channel and running North 50 degrees 56 minutes 30 seconds East a distance of 149.61 feet, more or less, to the point of beginning of this description.

Tax Acct. No.: 008 - 3606-3FA-5600 Key No.: 308633

## PARCEL 3:

A tract of land situated in the NE1/4 of Section 3, Township 36 South, Range 6 East of the Willamette Meridian, in the County of Klamath, State of Oregon, more particularly described as follows:

Beginning at an iron pin which is located South 12 degrees 04 minutes East 375.5 feet from the Northwest corner of Lot 1 of Harriman Park, Klamath County, Oregon, which pin is located in the center line of a private 20 foot wide roadway; thence South 80 degrees 43 minutes West a distance of 91 feet, more or less, to the East bank of the artificially constructed water channel; thence, running on said East Bank of said water channel North 20 degrees 46 minutes West a distance of 76.5 feet; thence North 80 degrees 40 minutes East a distance of 100 feet, more or less, to the center line of said private roadway; thence South 13 degrees 59 minutes East along the center line of said roadway 75.0 feet, more or less, to the point of beginning.

Tax Acct. No.: 008 - 3606-3A00-1900 Key No.: 309302

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Aspen Title Co. the 21st day  
of March A.D., 19 90 at 10:50 o'clock A.M., and duly recorded in Vol. M90  
of Mortgages on Page 5181

FEE \$18.00

Evelyn Biehn County Clerk

By Pauline Mullender