

21582

TRUST DEED

Vol. m9d Page 20995

THIS TRUST DEED, made this 9th day of October, 19_____, between

CHARLES BORNAMANN AND SHELLY BORNAMANN, "HUSBAND AND WIFE"

ASPER TITLE & ESTATE, INC.

ESTATE OF LESTER E. MILLER

as Beneficiary.

WITNESSETH:

Grantor irrevocably grants, bargains, sells and conveys to trustee in trust, with power of sale, the property

KERNATH County, Oregon, described as:

SEE EXHIBIT "A" ATTACHED HERETO

together with all and singular the tenements, fixtures and appurtenances and all other rights thereunto belonging or in anywise connected therewith 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 TWO THOUSAND FIVE HUNDRED AND NO/100

(\$22,500.00)

note of even date herewith, payable to beneficiary of 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.

The date of maturity of the debt secured by this instrument in 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, converted, assigned or alienated by the grantor without first having obtained the written consent or approval of the beneficiary, such, at the beneficiary's option, all obligations secured by this instrument, irrespective of the maturity dates expressed therein, or hereinafter, 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, and to cause or cause to be done any work of said property.

2. To complete to trustee promptly and in good and workmanlike manner, any building or improvement which may be constructed, damaged or destroyed, or otherwise put in or taken down during his tenure as owner.

3. To comply with all laws, ordinances, rules, orders, covenants, conditions and restrictions affecting said property; if the beneficiary so requests, to cause to be recorded such documents or instruments pursuant to the Uniform Commercial Code in the beneficiary's name therefor, and as provided for in the same in the present public office of recorder, as well as the cost of all documents made by him, sufficient to record such documents as may be deemed desirable by the beneficiary.

4. To provide and maintain insurance against loss or damage to the buildings

and contents of the buildings in the amount generally agreed upon by him and the beneficiary, but not less than \$100,000.00, and to insure, in

such amounts and fees as the beneficiary may require, all fixtures, equipment and other improvements in the buildings, and to make a claim to the latter; all premiums will be determined by the beneficiary, and no more than is required; if the grantor shall fail to make payment of the same insurance and to pay the same to the beneficiary in advance of his failure, days prior to the expiration of any policy, all insurance held by him shall be placed in said buildings, and he shall be liable for any loss or damage thereto.

5. To provide and maintain an insurance policy, if any, on the buildings, and to secure, in writing, any and all other insurance policy, if any, on the buildings, and to pay the premium thereon to the beneficiary, and to make a claim to the latter; all premiums will be determined by the beneficiary, and no more than is required; if the grantor shall fail to make payment of the same insurance and to pay the same to the beneficiary in advance of his failure, days prior to the expiration of any policy, all insurance held by him shall be placed in said buildings, and he shall be liable for any loss or damage thereto.

6. To pay all taxes, fees and expenses of this note, including the cost of collection and all other costs and expenses of the trustee incurred in connection with an enforcement of this obligation and trustee's and attorney's fees, as herein provided.

7. To appear and defend any action or proceeding, supporting the beneficiary's right or powers of beneficiary, trustee, and in any suit, action or proceeding in which the beneficiary or trustee may appear, including the defense of title and the beneficiary's or trustee's attorney's fees; the cost of attorney's fees incurred in this paragraph 7, in all cases shall be paid by the trustee and on the trust of an appeal from any judgment or decree of the trial court, trustee further agrees to pay such sum as the appropriate court shall determine reasonable as the beneficiary's or trustee's attorney's fees as such appear.

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 to require that all or any portion of the monies payable under this note be applied to the payment of 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 deducted by him, at least upon any reasonable costs and expenses incurred by him in the trial and appellate courts, necessarily paid or incurred by beneficiary in such proceedings, and the balance applied upon the indebtedness held by grantor; and grantor agrees, at his own expense, to take such actions and execute such instruments as shall be 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 all fees and expenses of this deed and the note for the enforcement (in case of full reconveyance, for cancellation), without affecting the liability of any person for the payment of the indebtedness, trustee may (1) consent to the making of any map or plan of said property; (2) 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) convey, without warranty, all or any part of the property. The grantor 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 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, first, to the expenses of operation and collection, including reasonable attorney's fees, upon any indebtedness secured hereby, and in such order as beneficiary may determine.

11. On entering upon and taking possession of said property, the collection of such rents, issues and profits, or the proceeds of sale 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 his election may proceed to foreclose this trust deed by advertisement or 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 whenupon 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 86.755.

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 86.735, 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 off-set than such portion as would then be 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 sale may be postponed, as provided by law. The trustee may sell said property either 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. Trustees 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 of fact shall be conclusive proof of the truthfulness thereof. Any person, except 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, including 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 items 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 grantee or to his successor in interest entitled to such surplus.

16. Beneficiary may from time to time appoint a successor or successor 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 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 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 herein 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 696.505 to 696.585.

50388

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, issues 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 incurred 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.

Charles Z Bornemann
CHARLES BORNAMANN

SHELLY BORNAMANN

Shelly A Bornemann

STATE OF OREGON, County of Klamath ss.

This instrument was acknowledged before me on

Charles Bornemann & Shelly Bornemann

10/16/1990

This instrument was acknowledged before me on

, 19

Sandra Handalter
Notary Public for Oregon

My commission expires 7-23-93

REQUEST FOR FULL RECONVEYANCE

To be used only when obligations have been paid.

TO:

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 recarry, without warranty, to the parties designated by the terms of said trust deed the certain now due and to you under the same. Mail reconveyance and documents to

DATED: 19

Beneficiary

TRUST DEED
(Form No. 811)
STEVENS-HOES LAW PUB. CO., PORTLAND, ORE.

Grantor
Beneficiary
AFTER RECORDING RETURN TO
ASPEN TITLE & ESCROW, INC.
525 MAIN STREET
KLAMATH FALLS, OR 97601

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 _____, 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 _____
By _____
TITLE _____
Deputy _____

20997

EXHIBIT "A"

The S 1/2 of the following described property in the County of Klamath, State of Oregon:

Beginning at a point from which the Northeast corner of the NW 1/4 SE 1/4 of Section 1, Township 39 South, Range 9 East of the Willamette Meridian, bears East 490 feet distant; thence running South a distance of 557-114/469 feet to the point of beginning, from which point run South 185-355/469 feet; thence run West 469 feet; thence run North 185-355/469 feet; thence run East 469 feet to the point of beginning.

CODE 43 MAP 3909-10B JL 400

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Armen Title Co. the 17th day
of Oct. A.D. 19 90 at 3:43 o'clock P.M., and duly recorded in Vol. M90,
of Mortgages on Page 20995.

Evelyn Biehn - County Clerk

By Suzanne Mullender

FEE \$18.00