

**22991**

## TRUST DEED

THIS TRUST DEED, made this 05 day of November, 19 90, between  
**WILFERD A. JOHNSON & JIMMIE LOU JOHNSON**  
**AN ESTATE IN FEE SIMPLE AS TENANTS BY THE ENTIRETY**  
 as Grantor, Terence J. Hammons, Attorney at Law, State of Oregon, as Trustee, and  
Sears Consumer Financial Corporation of Delaware  
 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 45 OF GRACE PARK, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE  
 OFFICE OF THE COUNTY CLERK OF KLAMATH COUNTY, OREGON.**

AKA: 3697 MADISON

KLAMATH FALLS, OR 97603

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 contained and payment of the  
 sum of Thirty Three Thousand Two Hundred and 0/100

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 November 15, 2005.

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.

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 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 33200.00 from time to time require, in an amount not  
 less than \$ 33200.00, 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 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 may procure the same at  
 grantor's expense. The amount collected under any fire or other insurance policy may  
 be applied by 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 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, assessments, 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 obligation 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 without 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, 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:

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 expenses and attorney's fees, both in the trial and appellate 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 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 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 not be 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 and 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 attorney's fees upon any  
 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  
 hereby or in his performance of any agreement hereunder, 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 in equity as a  
 mortgage or direct the trustee to foreclose this trust deed by advertisement and sale.  
 In the latter event, 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 not 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 the trustee's and attorney's  
 fees not exceeding the amounts provided by law.

14. Otherwise, the sale shall be held on the date 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 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 implied. 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, including  
 the compensation of the trustee and a reasonable charge by the 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 interest  
 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 executed by beneficiary, which, when recorded in the  
 mortgage records of the county of 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 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 **except for a first mortgage to DIRECTOR OF VETERANS' AFFAIRS in the amount of the present balance.**

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),  
(b) for an organization, or (even if grantor is a natural person) are for business or commercial purposes other than agricultural 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, 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 acknowledgement opposite.)

STATE OF OREGON,

County of Klamath } ss.

Personally appeared the above named \_\_\_\_\_

WILFRED A. JOHNSON

JIMMIE LOU JOHNSON

\_\_\_\_\_ and acknowledged the foregoing instrument to be \_\_\_\_\_ voluntary act and deed.

Before me:

(OFFICIAL SEAL)

Robert Henry Olsen  
Notary Public for Oregon

My commission expires: 5/2/92

STATE OF OREGON, County of \_\_\_\_\_ } ss.

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

Personally appeared \_\_\_\_\_ 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: 5/2/92

(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 \_\_\_\_\_

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

SPACE RESERVED  
FOR  
RECORDER'S USE

STATE OF OREGON,

County of Klamath } ss.

I certify that the within instrument was received for record on the 27th day of Nov., 19 90, at 11:09 o'clock A. M. and recorded in book/reel/volume No. N90 on page 23516 or as fee/file/instrument/microfilm/reception No. 22991. Record of Mortgages of said County.

Witness my hand and seal of County affixed.

AFTER RECORDING RETURN TO  
**Sears Consumer Financial Corporation of Delaware**  
18581 Teller Ave., Suite 200  
Irvine, CA 92713

Fee \$13.00

Evelyn Biehn, County Clerk  
NAME TITLE

By Pauline Mulendore Deputy