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28941

TRUST DEED

Vol. 91 Page 8243

THIS TRUST DEED, made this 23rd day of April, 1991, between
LANA J. MC AULIFFE

as Grantor ASPEN TITLE & ESCROW, INC. as Trustee, and
LONDELL BENNER AND RUTH BENNER, 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:

LOTS 2, 3 AND 4, BLOCK 3, TERWILLIGER ADDITION TO THE TOWN OF MERRILL, in the County of Klamath, State of Oregon.

CODE 14 MAP 4110-1C0 TL 4300

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 FIFTY THOUSAND AND NO/100-----

sum of FIFTY THOUSAND AND NO/100-----
 ----- (\$50,000.00) ----- Dollars, with interest thereon according to the terms of a promissory
 ----- note, the final payment of principal and interest hereof, if

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.

not to commit or permit any waste of said property and to maintain the same in good and workmanlike manner. 2. To complete any improvement which may be constructed, damaged or destroyed thereon, and pay when due all costs incurred therefor. 3. To comply with all laws, ordinances, and regulations of the said governments, conditions and restrictions applicable to the property; the beneficiary so requests, to cause to be prepared 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 to cause to be prepared and filed with the proper public officers or searching agencies any and all lien statements 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 the policies acceptable to the beneficiary, with loss payable to all such companies acceptable to the beneficiary, as soon as insured, and the policies of insurance shall be delivered to the beneficiary upon the expiration of the grantor shall be delivered to the beneficiary as such insurance and to the deliver said policy to the beneficiary at least fifteen days prior to the expiration of the 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 to the payment of any indebtedness secured hereby and the balance as beneficiary may determine, or at option of the 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 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 property before any part of such taxes, assessments and other charges become past due or delinquent and promptly deliver receipts therefor to beneficiary; should due or delinquent taxes, assessments or other charges, 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 obligations described in paragraph 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 the grantor is bound for the payment of the obligation herein described, and that such payments shall be immediately due and payable without demand and the nonpayment thereof shall, at the option of the beneficiary, 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.

lees actually 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 the mortgage, all legal costs and expenses, including 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 shall be fixed as agreed by the trial court and grantor further agrees to pay such sum as the appellate court shall adjudge reasonable as the beneficiary's or trustee's attorneys' fees.

GR GR APPEND

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 shall be 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 beneficiary 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 representation of this deed and the note for endorsement (in the event of any 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, cause the property hereunder to be sold or otherwise disposed of by any agent or by a receiver to be appointed by a court of competent jurisdiction 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 pay the same to the beneficiary, less costs and expenses of operation and collection, and the balance of the same to the beneficiary, and 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, time being of the essence with respect to the payment of said debt and/or performance, the beneficiary may, at his option, elect to foreclose immediately due and payable. In such an event the beneficiary at his election may proceed to foreclose this trust deed by in equity as a mortgage or direct the trustee to foreclose this trust deed by advertisement and sale, or may direct the trustee to foreclose this trust deed by remedy, either at law or in equity, whichever 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 of the grantor and shall cause to be recorded his written notice of sale, and his election to sell the said described real property to satisfy the obligation secured hereby whereupon the trustee shall fix the time and day of said sale, give notice thereof as then required by law and proceed to foreclose this trust deed pursuant to such notice.

13. Alter 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 of default. If the default consists of a failure to pay, when due, the default of default. If the default consists of a failure to pay, when due, the entire amount due at the time of the cure other than such portion as was not then due had no default occurred. Any other performance required under the being cured may be cured by tendering the performance required under the obligation or trust deed. Any cure, in addition to curing the default or defaults, the person actually tendering the cure shall pay to the beneficiary all costs and expenses actually incurred in enforcing the obligation of the trust deed to the other 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 shall sell the same at public auction to the highest bidder. Each purchaser shall execute a deed 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 conclusively presumed true. Any person executing the deed of the trustee, but including the truthfulness thereof. Any person executing the deed of the trustee, but including the purchase at the sale.

15. When trustee sells pursuant to the power herein provided, trustee shall apply the proceeds of sale to payment of (1) the expenses of sale, including the compensation of the trustee and (2) 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 and (4) the 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 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.

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

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.

Lana J. McAuliffe
LANA J. MC AULIFFE

STATE OF OREGON, County of Klamath ss.

This instrument was acknowledged before me on _____, 19____,

by LANA J. MC AULIFFE

This instrument was acknowledged before me on April 25, 1991,

by *Lana J. McAuliffe*

as Grantor

of _____

Beverly A. Biehn

Notary Public for Oregon

My commission expires 4-25-91

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.

TO: STATE OF OREGON

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 Klamath ss.

I certify that the within instrument was received for record on the 3rd day of May, 1991, at 10:24 o'clock A.M., and recorded in book/reel/volume No. M91 on page 8243 or as fee/file/instrument/microfilm/reception No. 28941, Record of Mortgages of said County.

Witness my hand and seal of County affixed.

Evelyn Biehn County Clerk

By Pauline Mullendore Deputy

Fee \$13.00