

**TRUST DEED**

K-43946

THIS TRUST DEED, made this 24 day of April, 19 92, between

PHILIP E. HODGE & M. LYNN HODGE

PHILIP E. HODGE & M. LYNN HODGE  
AN ESTATE IN FEE SIMPLE AS TENANTS BY THE ENTIRETY

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 12 OF SUMMERS HEIGHTS, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE  
IN THE OFFICE OF THE COUNTY CLERK OF KLAMATH COUNTY, OREGON.

AKA: 5304 HILDALE

**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 **Eighteen thousand Six hundred Thirty Six and 0/100s** Dollars with interest thereon according to the terms of a

sum of Eighteen thousand Six hundred thirty six and 07/100 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 May, 1907. The instrument is the date, stated above, on which the final installment of said note

and interest hereof, if not sooner paid, to be due and payable May

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.

This instrument is not to be used for agricultural, timber or grazing purposes.

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.

agencies as may be demanded 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 \$1833.00 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 the term 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 to the payment of any indebtedness created 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.

pursuant to such notices.

5. To keep said premises free from construction liens and to pay all taxes, assessments or other charges that may be levied or assessed upon or against said assessments or 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 make good payment of all such 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 obligations described in paragraph 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 the fact that the principal hereof and for such payments, with interest as provided herein, are secured by the property hereinbefore described, as well as the proceeds of the sale of the property hereinbefore 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 any case 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.

8. It is mutually agreed that:

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1. In the event that any portion of all of said property shall be taken under the right of eminent domain for public use, the beneficiary shall have the right, if it so elects, to require that the amount of compensation payable to the beneficiary 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 the beneficiary in such proceedings, shall be paid to beneficiary and applied to the trial and appellate courts, costs and expenses and attorney's fees necessarily incurred by the beneficiary in such proceedings, and the balance necessary to pay the costs and expenses of the beneficiary in such proceedings, shall be paid to the indebtedness secured hereby, and grantor agree, 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.

2. In the event that any portion of all of said property shall be taken under the right of eminent domain for public use, the beneficiary shall have the right, if it so elects, to require that the amount of compensation payable to the beneficiary 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 the beneficiary in such proceedings, shall be paid to beneficiary and applied to the trial and appellate courts, costs and expenses and attorney's fees necessarily incurred by the beneficiary in such proceedings, and the balance necessary to pay the costs and expenses of the beneficiary in such proceedings, shall be paid to the indebtedness secured hereby, and grantor agree, 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 recoverances, for cancellation, without affecting the liability of any co-trustee 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 thereof 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 or beneficiary, 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, take upon and take possession of said property or any part thereof, and in person or by agent or by receiver, collect the rents, issues and profits, and in person or by agent or by receiver, collect 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, the payment of any indebtedness secured hereby or in his personal absence of any agreement hereunder, the beneficiary may cause the same to be sold 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 deliver to the beneficiary or the trustee a power of attorney to sell the land be recorded his written notice of default. The beneficiary secured hereby whereupon the trustee shall cause the same to be sold at public 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.

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 empowered by ORS 86.765, 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 or other sums which the 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, exceeding the amounts provided by law.

14. Otherwise, the sale shall be held on the date of sale may be postponed designated in the notice of sale or the time to which the 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 of warranty, express or implied the recitals in the deed of any portion of fact shall be conclusive proof of the truthfulness thereof. Any person, excluding the trustee, but including the grantor and beneficiary, may purchase of 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 interests 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 in interest entitled to such 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.

case of full recovery of assets, the trustee may (a) consent to the making of such payment or payments as the trustee shall deem appropriate without further notice to the beneficiary; or (b) unless such action is precluded by applicable law, pay the proceeds of the insurance policy to the beneficiary.

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, or a person licensed to act as a broker or agent under the laws of the United States, or any agency thereof, or an escrow agent licensed under ORS 696.005 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 UNITED STATES NATIONAL BANK 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. 130B 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. 130B, 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 acknowledgment opposite)

STATE OF OREGON,

County of Klamath } ss.

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

**PHILIP E. HODGE**  
**M. LYNN HODGE**

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

Before me:

(OFFICIAL SEAL)

Notary Public for Oregon



My commission expires:

**OFFICIAL SEAL**  
**JOHN F. OGEDOWSKI**  
**NOTARY PUBLIC - OREGON**  
**COMMISSION NO. 004238**  
**MY COMMISSION EXPIRES JAN. 24, 1995**

REQUEST FOR FULL RECONVEYANCE

To be used only when obligations have been paid.

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

Personally appeared \_\_\_\_\_, 19\_\_\_\_, 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

(OFFICIAL SEAL)

My commission expires:

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 LAM PUBL. 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 5th day of May, 1992 at 9:27 o'clock A. M., and recorded in book/reel/volume No. M92 on page 9688 or as fee/file/instrument/microfilm/reception No. 44450. Record of Mortgages of said County.

Witness my hand and seal of County affixed.

Evelyn Biehn, County Clerk  
NAME TITLE

By Deborah M. Muth Deputy

Sears Consumer Financial Corporation of Delaware  
18581 Teller Ave., Suite 200  
Irvine, CA 92715

Fee \$15.00