

## RUST DEED

Vol. 4 / Page 1

THIS TRUST DEED, made the 14th day of March 1994, between KEITH E. ASHBY and SHELLEY K. WILLIAMS, not as tenants in common but with full rights of survivorship, as Grantor, ASPEN TITLE & ESCROW, INC., as Trustee, and MORRIS TURTLETAUB, as Beneficiary.

## WITNESSETH:

Grantor revocably grants, bargains, sells and conveys to trustee in trust, with power of sale, the property in Klamath County, Oregon, described below:

LOT 59, CASTLES, in the County of Klamath, State of Oregon.

ACREAGE: .100

CODE: 4 MAP: 9009 LDP: 101-4100  
THIS TRUST DEED IS AN ALL-INCLUSIVE TRUST DEED AND JUNIOR AND SUBORDINATE TO A FIRST TRUST DEED IN FAVOR OF ASPEN TITLE & ESCROW, INC., RETIREMENT TRUST ACCOUNT DATED JULY 13, 1991, AND RECORDED AUGUST 14, 1991, BOOK M-91, PAGE 16088 MORTGAGE RECORDS OF KLAMATH COUNTY.

SEE EXHIBIT "A" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOP together with all and singular the covenants and stipulations 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 the property.

FOR THE PURPOSE OF SECURING PERFORMANCE of each agreement of grantor herein mentioned and payment of the sum of EIGHTEEN ONE THOUSAND AND NO/100 (\$18,100.00) Dollars, with interest thereon according to the terms of a promissory note of grantor herein, payable to beneficiary or order and made by grantor, the final payment of principal and interest hereof, if not sooner paid, shall be due and payable on October 1, 1994.

The date of maturity of the debt secured by this instrument is the date, stated above, on which the final installment of the 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 the property in good condition and repair, not to remove or demolish any building or improvement thereon, nor to construct or permit any waste of the property.
2. To complete or restore promptly and in good and habitable condition 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 the 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 law 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 property 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 \$1,000,000.00 of 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 for any reason to procure any such insurance and to deliver the policies to the beneficiary as soon as insured, the grantor, in addition thereto, shall be liable to the beneficiary for the 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 the property free from construction liens and to pay all taxes, assessments and other charges that may be levied or assessed upon or against the property before any part of such taxes, assessments and other charges become past due or delinquent and promptly deliver, "as far as the grantor can", to the beneficiary, should the grantor fail to make payment of any taxes, assessments, insurance premiums, liens or other charges payable by him, 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 right arising from breach of any of the covenants herein and for such payments, with interest as aforesaid, the property, "as far as the grantor can", 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 payment 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 such 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 judge 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 of all of the 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 same be paid as compensation for such taking.

NOTE: The Trust Deed and 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, counties, agents or branches, or a title agent or any agency thereof, or an association licensed under ORS 594.105-1695.533.

## TRUST DEED

KEITH E. ASHBY  
SHELLEY K. WILLIAMS  
MORRIS TURTLETAUB

After recording return to [Name, Address, Zip] and leave at [Address, Zip]  
ASPEN TITLE & ESCROW, INC.  
COLLECTION DIVISION, DEPARTMENT

## STATE OF OREGON,

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

Certify that the within instrument was received for record on the day of \_\_\_\_\_, 19\_\_\_\_\_,

Block \_\_\_\_\_, and recorded in Book \_\_\_\_\_, volume No. \_\_\_\_\_, on \_\_\_\_\_, 19\_\_\_\_\_, as face file/reception No. \_\_\_\_\_, Record of \_\_\_\_\_, of said County.

Witness my hand and seal of \_\_\_\_\_, \_\_\_\_\_, 19\_\_\_\_\_,  
County aforesaid.

By \_\_\_\_\_, Deputy \_\_\_\_\_

which are in excess of the amount required to pay all reasonable costs, expenses and attorney's fees necessarily paid or incurred by plaintiff in such proceeding, shall be paid to beneficiary and apportioned by it first upon any reasonable costs and expenses and attorney's fees. Both in the trial and appellate court necessarily paid or incurred by beneficiary in such proceeding and the balance applied upon the indebtedness secured hereby, and grantor agrees, to 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 enforcement (in case of full reconveyance), 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 plan of the property; (b) enter 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 trustee in any reconveyance may be described as the "person or persons legally entitled thereto," and the recitals therein of any matters of fact 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 the 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, 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 the property, the collection of such rents, issues and profits, or the proceeds of fire and other insurance policies or compensation or awards for any tiling 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 grantor's 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 may elect to 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 written notice of default and election to sell the 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 167.755 to 167.875.

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 167.755, 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 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 the sale may be postponed as provided by law. The trustee may sell the property either in one parcel or in separate parcels and shall sell the parcel or parcels in succession 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 wage 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 order of their priority and (4) the surplus, if any, to the grantor or to any 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 successive 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 shall be a public record of the county or counties in which the property is situated, shall be conclusive proof of such appointment of the successor trustee.

17. Trustee shall file, and when filed, shall record and acknowledge, 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.

18. Trustee, co-trustee and agent of the trustee, and the beneficiary, shall be liable to the grantor in damages for any loss suffered by the grantor in the real property and personalty unreasonably caused by trustee, co-trustee or agent.

19. Trustee, co-trustee and agent of the trustee, and the beneficiary, shall be liable to the grantor in damages for any loss suffered by the grantor in the real property and personalty unreasonably caused by trustee, co-trustee or agent, except to the extent that the grantor waives 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 entity grantor is a natural person) are for business or commercial purposes.

This deed applies to debts to the benefit of and binds all parties hereto, their heirs, 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 or otherwise, and the term "trustee" shall mean the person or persons holding in trust the property described in this instrument, and that the grantor, will warrant and forever defend in fee simple all persons whomsoever, that 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 entity grantor is a natural person) are for business or commercial purposes.

This deed applies to debts to the benefit of and binds all parties hereto, their heirs, 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 or otherwise, and the term "trustee" shall mean the person or persons holding in trust the property described in this instrument, and that the grantor, will warrant and forever defend in fee simple all persons whomsoever, that 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 entity grantor is a natural person) are for business or commercial purposes.

20. IN WITNESS WHEREOF, the grantor has executed this instrument the day and year first above written.

21. This instrument is acknowledged by the undersigned, Notary Public, this day of March, 1996.

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EXHIBIT "A" TO TRUST DEED

THIS TRUST DEED IS AN ALL-INCLUSIVE TRUST DEED AND IS JUNIOR AND  
SUBORDINATE TO A TRUST DEED RECORDED IN BOOK H-91 AT PAGE 15088  
IN FAVOR OF ASPEN TITLE & ESCROW, INC. RETIREMENT TRUST ACCOUNT  
AS BENEFICIARY/MORTGAGEE, WHICH SECURES THE PAYMENT OF A NOTE  
THEREINMENTIONED. MORRIS TURTLETAUB, THE BENEFICIARY(IES)  
HEREIN, AGREE TO PAY, WHEN DUE, ALL PAYMENTS DUE UPON THE SAID  
NOTE IN FAVOR OF ASPEN TITLE & ESCROW, INC., RETIREMENT TRUST  
ACCOUNT AND WILL SAVE GRANTOR(S) HEREIN KEITH E. ASHBY AND  
SHELLY R. WILLIAMS, HARMLESS THEREFROM. SHOULD THE SAID  
BENEFICIARY(IES) HEREIN DEFAULT IN MAKING THE PAYMENTS DUE UPON  
SAID PRIOR NOTE AND TRUST DEED, GRANTOR(S) HEREIN MAY MAKE SAID  
DELINQUENT PAYMENTS AND ANY SUMS SO PAID BY GRANTOR(S) HEREIN  
SHALL THEN BE CREDITED UPON THE SUMS NEXT TO BECOME DUE UPON THE  
NOTE WHICH IS SECURED BY THIS ALL-INCLUSIVE TRUST DEED.

~~10) DETAILS OF BENEFICIARY(IES)~~  
~~10) DETAILS OF GRANTOR(S)~~

STATE OF OREGON COUNTY OF KIAMIATE

Filed for record at request of  
of April 1

REF: \$20.00

A.D. 1994 at 11:26 P.M. and duly recorded in Vol. No. 4  
of Manufactures on Page 9831 by Clerk.