

87424

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**DEED OF TRUST**

DATED: August 22, 1994

BETWEEN: Richard C. Swan, Jr. and Corinne M. Swan ("Trustor," hereinafter "Grantor,")

WHOSE ADDRESS IS 5417 Basin View Drive, Klamath Falls, Oregon 97603

AND: Klamath Public Employees Federal Credit Union Beneficiary ("Credit Union,")

WHOSE ADDRESS IS 3737 Shasta Way, Klamath Falls, Oregon 97603

AND: Aspen Title &amp; Escrow, Inc. ("Trustee,")

Grantor conveys to Trustee for benefit of Credit Union as beneficiary, all of Grantor's right, title, and interest in and to the following described real property (the "Real Property"), together with all existing or subsequently erected or affixed improvements or fixtures.

Lot 1, Block 8, Tract 1152, NORTH HILLS, in the County of Klamath, State of Oregon.

Grantor presently assigns to Credit Union (also known as Beneficiary) all of Grantor's right, title, and interest in and to all rents, revenues, income, issues, and profits (the "Income") from the Real Property described above.

Grantor grants to Credit Union a Uniform Commercial Code security interest in the Income and in all equipment, fixtures, furnishings, and other articles of personal property owned by Grantor, now or subsequently acquired or attached or affixed to the Real Property described above, together with all accretions, parts, or additions to, all replacements of and all substitutions for any of such property, and together with all proceeds (including insurance proceeds and refund of premium) from any sale or other disposition (the "Personal Property"). The Real Property and the Personal Property are collectively referred to as the "Property."

(Check if Applies)

- ☐ There is a mobile home on the Real Property, which is covered by this security instrument, and which is and shall remain (Please check - which is applicable)
- ☐ Personal Property
- ☐ Real Property

Grantor has borrowed from Credit Union, has guaranteed to Credit Union, or otherwise has agreed to provide the Property as collateral for a debt to Credit Union in the principal amount of \$ 2,000.00. This amount is repayable with interest in accordance with the terms of a promissory note or other credit agreement given to evidence the debt, dated 8-22-94, due not later than ten (10) years from the date executed unless otherwise indicated.

The term "Indebtedness" as used in this Deed of Trust, shall mean the debt to Credit Union described above, including interest thereon as described in the note or credit agreement, plus any amounts expended or advanced by Credit Union to discharge Grantor's obligations hereunder, and any expenses incurred by Credit Union to enforce Grantor's obligations hereunder, with interest thereon at the Note rate.

The promissory note or other credit agreement describing the repayment terms of the Indebtedness, and any notes, agreements or documents given to renew, extend, or substitute for the promissory note or credit agreement originally issued is referred to as "the Note." The rate of interest on the Note may be subject to indexing, adjustment, renewal or renegotiation.

The term "Borrower" is used in the Deed of Trust for the convenience of the parties, and use of that term shall not affect the liability of any such Borrower on the Note or create any legal or equitable interest in the Property in Borrower by reason of this Deed of Trust. Any Borrower who assigns this Deed of Trust, but does not execute the Note, (a) is assigning this Deed of Trust only to grant and convey that Borrower's interest in the Property to Trustee under the terms of this Deed of Trust; (b) is not personally liable under the Note except as otherwise provided by law or contract, and (c) agrees that Credit Union and any other Borrower hereunder may agree to extend, modify, forbear, release any collateral, or make any other accommodations or amendments with regard to the terms of this Deed of Trust or the Note, without notice to that Borrower, without that Borrower's consent, and without releasing that Borrower or modifying this Deed of Trust as to the Borrower's interest in the Property.

This Deed of Trust secures a note under which the final payment of principal and interest will be due on or before 9-15-2004.Indebtedness includes all loans of Beneficiary to Grantor, whether now existing or made later. This includes future loans in addition to the Note principal, up to a limit of \$ 0. However, no loan that would require providing a right of rescission being given to Grantor shall be secured by this Deed of Trust unless a right of rescission is in fact given to Grantor.

This Deed of Trust including the assignment of income and the security interest is given to secure payment of the Indebtedness and performance of all Grantor's obligations under this Deed of Trust and the Note and is given and accepted under the following terms:

1. **Payment and Performance.** Grantor shall pay to Credit Union all amounts secured by this Deed of Trust as they become due, and shall strictly perform all of Grantor's obligations.2. **Possession and Maintenance of the Property.**2.1 **Possession.** Until in default, Grantor may remain in possession and control of and operate and manage the Property and collect the Income from the Property.2.2 **Duty to Maintain.** Grantor shall maintain the Property in first class condition and promptly perform all repairs and maintenance necessary to preserve its value.2.3 **Nuisance, Waste.** Grantor shall neither conduct or permit a nuisance nor commit or suffer any strip or waste (in or to the Property or any portion thereof including without limitation removal or alienation of any Grantor of the right to remove any timber, minerals (including oil and gas), or gravel or rock products.2.4 **Removal of Improvements.** Grantor shall not demolish or move any improvements from the Real Property without the prior written consent of Credit Union. Credit Union shall consent if Grantor makes arrangements satisfactory to Credit Union to replace any improvement which Grantor proposes to remove with one of at least equal value. "Improvements" shall include all existing and future buildings, structures, and parking facilities.2.5 **Credit Union Right to Enter.** Credit Union, its agents and representatives, may enter upon the Property at all reasonable times to attend to Credit Union's interest and to inspect the Property.



conveyance of the Real Property or any right, title, or interest therein, whether legal or equitable, whether voluntary or involuntary, by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than three years, lease-option contract, or any other method of conveyance of real property interests. If any Borrower is a corporation, transfer also includes any change in ownership of more than 25% of the voting stock of Borrower.

Grantor or a prospective transferee applies to Credit Union or consent to a transfer, Credit Union may require such information concerning the prospective transferee as would normally be required from a new loan applicant.

10.2 **Condition to Consent.** As a condition of its consent to any transfer, Credit Union may in its discretion impose an assumption fee in accordance with Credit Union's fee schedule then in effect, and may increase the interest rate of the Indebtedness to the prevailing rate for similar rates then charged by Credit Union. Credit Union may increase the amount of each remaining installment so that the Indebtedness will be fully paid by the original maturity date. In no event, however, shall the interest rate be increased, nor any fee imposed, beyond the maximum rate permitted under applicable law. This paragraph shall not be a condition to consent for terms that Credit Union may impose as a condition to consent. This paragraph is not exclusive and Credit Union, at its sole discretion, may impose additional terms or may decline to consent to a transfer.

10. **Effect of Consent.** If Credit Union consents to one transfer, the consent shall not constitute a consent to other transfers or a waiver of this section. No transfer by Grantor shall relieve Grantor of liability for payment of any extension of time for payment or modification of the terms of this Deed of Trust or the Note without relieving Grantor from liability. Grantor waives notice, presentment, and protest with respect to the indebtedness

## 11 Security Agreement, Financing Statement,

11. **Security Agreement.** This instrument shall constitute a security agreement to the extent any of the Property constitutes fixtures, and the Lender shall have a first priority lien in the rights of a secured party under the Uniform Commercial Code of the state in which the Real Property is located.

11.2 Security Interest. Upon request by Credit Union Grantor shall execute financing statements and take whatever other action is requested by Credit Union to perfect and continue the security interest in the income and Personal Property. Grantor hereby appoints Credit Union as Grantor's attorney in fact for the purpose of executing all documents necessary to perfect or continue this security interest. Credit Union may at any time and without further authorization from Grantor, make copies or reproductions of this Deed of Trust as a financing statement. Grantor shall reimburse Credit Union for all expenses incurred in perfecting or continuing this security interest. Upon default, Grantor shall assemble the Personal Property and make it available to Credit Union within three days after receipt of written demand from Credit Union.

1.3 **Mobile Homes.** If the Property includes a mobile home, motor home, modular home, or similar structure, such structure shall be and shall remain **Personal Property or Real Property**, as stated above regarding the classification of such structures for the purpose of tax assessments. The removal or addition of axles or wheels or the placement upon or removal from a concrete base, shall not alter the characterization of such structure.

12. **Reconveyance on Full Performance.** If Grantor pays all of the indebtedness when due and otherwise performs all the obligations imposed upon Grantor under this Deed of Trust and the Note, Credit Union shall execute and deliver to Grantor suitable statements of termination of the income and the Personal Property. Any reconveyance fee or termination fee required by law shall be paid by Grantor.

13. **Default.** The following shall constitute events of default:

- (j) Failure of Grantor to perform any portion of the indebtedness when it is due.
- (k) Failure of Grantor within the time required by this Deed of Trust to make any payment for taxes, insurance, or for any other payment necessary to prevent filing of or to affect discharge of a lien.
- (l) Dissolution or termination of existence (if Grantor is a corporation), insolvency, business failure, appointment of a receiver for any part of the Property, assignment for the benefit of creditors, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against, or the failure to obtain dismissal or deny the contents of any petition filed under any bankruptcy or insolvency laws within the time required to answer by Grantor or any of the individuals or entities who are herein collectively referred to as "Grantor."
- (m) Default of Grantor under any prior obligation or instrument securing any prior obligation, or commencement of any suit or other action to foreclose any prior lien.
- (n) If the Real Property has been submitted to unit ownership pursuant to a Unit Ownership Law or any similar law, failure of Grantor to perform any of the obligations imposed on Grantor by the declaration of the association of unit owners, or by any rules or regulations thereunder; if Grantor's interest in the Real Property is a leasehold interest and such Property has been submitted to unit ownership by Grantor by the use of the Real Property from owner, any default by Grantor under such lease which might result in termination of the lease as it pertains to the Real Property, or any failure of Grantor as a member of an association of unit owners to take any reasonable action within Grantor's power to prevent a default under such lease by the association of unit owners or by any member of the association.
- (o) Failure by Grantor to perform any other obligation under this Deed of Trust if:
- (1) Credit Union has sent to Grantor a written notice of the nature and the failure and the failure has not been cured within 5 days of the notice, or if the default cannot be cured within 15 days after Grantor has notified Credit Union of the default;
- (2) Grantor has given notice of a breach of the same provisions of this Deed of Trust within the preceding 12 months
- (p) If the interest of Grantor in the Property is a leasehold interest, any default by Grantor under the terms of the lease, or any other event (whether or not the fault of Grantor) that results in the termination of Grantor's leasehold rights provided that such events shall not constitute a default if Grantor provides Credit Union with prompt written notice reasonably satisfactory to Credit Union setting forth Grantor's intent to place the Personal Property and all Improvements at another location subject to a lease of at least equal benefit to Grantor's right to do so.
- (q) Any breach by Grantor under the terms of any other agreement between Grantor and Credit Union that is not remedied within any grace period provided therein, including without limitation any agreement concerning any indebtedness of Grantor to Credit Union, whether made now or later.
- (r) If Credit Union reasonably deems itself injured by any

#### 14. Rights and Remedies on Default.

14.1 Remedies. Upon the occurrence of any event of default and at any time thereafter, Trustee or Credit Union may declare a default and exercise any one or more of the following rights and remedies, in addition to any other rights or remedies provided by law.

- [illegible]

14.2 **Sale of the Property.** In exercising its rights and remedies, the Trustee or Credit Union, shall be free to sell all or any part of the Property together or separately, or to sell certain portions of the Property at any public sale on all or any portion of the Property and refrain from selling other portions. Credit Union shall be entitled to

14.3 **Notice of Sale.** Credit Union shall give Grantee reasonable notice of the time and place of any public sale of the Personal Property or of the time after which any private sale or other intended disposition of the Personal Property is to be made. Reasonable notice shall mean notice given at least ten days before the time of the sale or disposition.

14.4 **Waiver, Election of Remedies.** A waiver by any party of a breach of a provision of this Deed of Trust shall not constitute a waiver of or prejudice the party's right otherwise to demand strict compliance with the provision or any other provision. Election by a party of one remedy shall not exclude pursuit of any other remedy and an election to make expenditures or to take action to perform an obligation of Grantor under this Deed of Trust after failure of Grantor to perform shall not affect the party's right to declare a default and exercise its remedies under this Deed of Trust.

[illegible]

15. **Notice.** Any notice under this Deed of Trust shall be in writing and shall be effective when actually delivered or, if mailed, shall be deemed effective on the second day after being deposited in first class registered or certified mail, postage prepaid, directed to the address stated in this Deed of Trust. Any party may change its address or notices by written notice to the other parties. Credit Union requests that copies of notices of foreclosure from the holder of any lien which has priority over this Deed of Trust be sent to Credit Union's address, as set forth on page one of this Deed of Trust. If the Property is in California, the notice shall be as provided by Section 2924b of the Civil Code of California.

**16. Miscellaneous.**

**16.1 Successors and Assigns.** Subject to the limitations stated in this Deed of Trust on transfer of Grantor's interest, and subject to the provisions of applicable law with respect to successors and assigns, this Deed of Trust shall be binding upon and inure to the benefit of the parties, their successors and assigns.

**16.2 Unit Ownership Power of Attorney.** If the Real Property is submitted to unit ownership, Grantor grants an irrevocable power of attorney to Credit Union to vote in its discretion on any matter that may come before the members of the association of unit owners. Credit Union shall have the right to exercise this power of attorney only after default by Grantor and may decline to exercise this power, as Credit Union may see fit.

**16.3 Annual Reports.** If the Property is used for purposes other than Grantor's residence, within 60 days following the close of each fiscal year of Grantor, Grantor shall furnish to Credit Union a statement of net operating income received from the Property during Grantor's previous fiscal year in such detail as Credit Union shall require. "Net operating income" shall mean all cash receipts from the Property less all cash expenditures made in connection with the operation of the Property.

**16.4 Applicable Law.** The law of the state in which the Property is located shall be applicable for the purpose of construing and determining the validity of this Deed of Trust and determining the rights and remedies of Credit Union on default.

**16.5 Joint and Several Liability.** If Grantor consists of more than one person or entity, the obligations imposed upon Grantor under this Deed of Trust shall be joint and several.

**16.6 Time of Essence.** Time is of the essence of this Deed of Trust.

**16.7 Use.**

- (a) If located in Idaho, the Property either is not more than twenty acres in area or is located within an incorporated city or village.
- (b) If located in Washington, the Property is not used principally for agricultural or farming purposes.
- (c) If located in Oregon, "THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES."
- (d) If located in Montana, the Property does not exceed fifteen acres and this instrument is a Trust Indenture executed in conformity with the Small Tract Financing Act of Montana.
- (e) If located in Utah this instrument is a Trust Deed executed in conformity with the Utah Trust Deed Act, UCA 57-1-19, et seq.

**16.8 Waiver of Homestead Exemption.** Borrower hereby waives the benefit of the homestead exemption as to all sums secured by this Deed of Trust.

**16.9 Merger.** There shall be no merger of the interest or estate created by this Deed of Trust with any other interest or estate in the Property at any time held by or for the benefit of Credit Union in any capacity, without the written consent of Credit Union.

**16.10 Substitute Trustee.** Credit Union, at Credit Union's option, may from time to time appoint a successor trustee to any Trustee appointed hereunder by an instrument executed and acknowledged by Credit Union and recorded in the office of the Recorder of the county where the Property is located. The instrument shall contain the name of the original Credit Union, Trustee, and Borrower, the book and page where this Deed of Trust is recorded, and the name and address of the successor trustee. The successor trustee shall, without conveyance of the Property, succeed to all the title, powers, and duties conferred upon the Trustee herein and by applicable law. This procedure for substitution of trustee shall govern to the exclusion of all other provisions for substitution.

**16.11 Statement of Obligation.** If the Property is in California, Credit Union may collect a fee not to exceed \$50 for furnishing the statement of obligation as provided in Section 1943 of the Civil Code of California.

**17 Prior Indebtedness.**

**17.1 Prior Lien.** The lien securing the indebtedness secured by this Deed of Trust is and remains secondary and inferior to the lien securing payment of a prior obligation in the form of a:

(Check which Applies)

Other (Specify) ☐ Trust Deed ☐ Mortgage ☐ Land Sale Contract

NONE

The prior obligation has a current principal balance of \$ \_\_\_\_\_ and is in the original principal amount of \$ \_\_\_\_\_.

**17.2 Default.** If the payment of any installment of principal or any interest on the prior indebtedness is not made within the time required by the note evidencing such indebtedness, or should an event of default occur under the instrument securing such indebtedness and not be cured during any applicable grace period therein, then the indebtedness secured by this Deed of Trust shall, at the option of Credit Union, become immediately due and payable, and this Deed of Trust shall be in default.

**17.3 No Modifications.** Grantor shall not enter into any agreement with the holder of any mortgage, deed of trust, or other security agreement which has priority over this Deed of Trust by which that agreement is modified, amended, extended, or renewed without the prior written consent of Credit Union. Grantor shall neither request nor accept any future advances under a prior mortgage, deed of trust, or other security agreement without the prior written consent of Credit Union.

GRANTOR

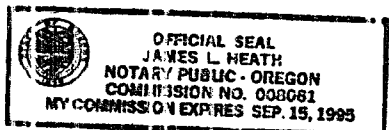
*Richard C. Swan, Jr.* RANTOR: *Corinne M. Swan*  
 Richard C. Swan, Jr. Corinne M. Swan

STATE OF Oregon

County of Klamath

On this day personally appeared before me Richard C. Swan, Jr. and Corinne M. Swan to me known to be (or in California, personally known to me or proved to me on the basis of satisfactory evidence to be) the individual, or individuals described in and who executed the within and foregoing instrument, and acknowledged that he/she signed the same as his/her free and voluntary act and deed, for the uses and purposes therein mentioned.

Given under my hand and official seal this 22nd day of August, 19 94



*James L. Heath*  
 Notary Public for Oregon  
 Residing at Klamath Falls, Oregon  
 My commission expires: Sept. 15, 1995

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Aspen Title Co of Sept. A.D., 19 94 at 11 o'clock PM. and duly recorded in Vol. M94 of Mortgages on Page 27891

FEE \$25.00

Evelyn Biehn County Clerk  
 By *Corinne M. Swan*