

NC
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01-03-95A11:21 RCVD

TRUST DEED

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THIS TRUST DEED, made this 19th day of December, 1994, between

Scott C. Herrera and Diane M. Herrera, as Grantor,
Aspen Title Co., Klamath County, as Trustee, and

Capitol Industries, Inc., a Nevada Corp., 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 and 3 in Block 24 of North Klamath Falls, According to the official platt thereof on file in the office of the County Clerk of Klamath County, Oregon.

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 the property.

FOR THE PURPOSE OF SECURING PERFORMANCE of each agreement of grantor herein contained and payment of the sum of Five-Thousand Dollars and no/100* * * * * (\$5,000.00) 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 Upon Demand, 19

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. Should the grantor either agree to, attempt to, or actually sell, convey, or assign all (or any part) of the property or all (or any part) of grantor's interest in it without first obtaining 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 execution by grantor of an earnest money agreement** does not constitute a sale, conveyance or assignment.

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; not to commit 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 herefor.

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 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 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 \$ Full 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 at least fifteen days prior to the expiration of any policy of insurance now or hereafter placed on the 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 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 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 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 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 its 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 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 monies payable as compensation for such taking,

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 in this state, its subsidiaries, affiliates, agents or licensees, the United States, or any agency thereof, or an escrow agent licensed under ORS 696.505 to 696.585.

*WARNING: 12 USC 1701-3 regulates and may prohibit exercise of this option.

**The publisher suggests that such an agreement address the issue of obtaining a beneficiary's consent in complete detail.

TRUST DEED

Scott C. Herrera and Diane M. Herrera
2955 "B" N.E. Renee St.
Gresham, Ore. 97030

Grantor

Capitol Industries, Inc.
5150 Mae Anne Ave., Suite #213-214
Reno, NV 89523

Beneficiary

After Recording Return to (Name, Address, Zip):

5150 Mae Anne Ave., Suite #213-214
Reno, NV 89523

SPACE RESERVED
FOR
RECORDER'S USE

STATE OF OREGON,

County of } ss.

I certify that the within instrument was received for record on the day of 19, at o'clock M., and recorded in book/reel/volume No. on page or as fee/file/instrument/microfilm/reception No. Record of of said County.

Witness my hand and seal of County affixed.

NAME

TITLE

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 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 to: endorsement (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 plat of the property; (b) join in granting any easement or creation of any other appurtenance affecting this deed or the lien or charge thereof; (c) join in any restriction thereon; (d) join in any subordination of any matter or fact in any reconveyance may be described as the "person or persons shall be conclusive proof of the truthfulness thereof. Trustee's matters or facts shall be not less than \$5. matters or facts shall be not less than \$5.

10. Upon any default by grantor hereunder, the beneficiary may at any time without notice, either in person, by agent or by a receiver or assignee, 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 the 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 award for any taking or damage of the property, and the application or release thereof at and to the satisfaction of the beneficiary may determine.

[illegible]

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 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 auction to the highest bidder for cash, payable at the time of sale. Trustee shall deliver to the purchaser its deed in form required by law conveying the property sold, but without any covenant or warranty, express or implied. The recitals in the deed of any matters of fact shall be conclusive proof thereof. Any person, excluding the trustee, but including the grantor and beneficiary, may purchase at the sale provided herein. Trustee shall apply the proceeds of sale to payment of (1) the expenses of the sale; (2) the costs of the suit; (3) the costs of the execution of the trust; and (4) the balance to the beneficiary.

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 this trustee and 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 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 under from time to time appoint a successor or successors to the successor trustee, the latter shall be vested with all title and 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 title to the property is situated, shall be conclusive proof of proper appointment of the successor trustee. Acknowledged is a public record as provided by law. Trustee

17. Trustee accepts this trust when this deed is fully executed and acknowledged, is made a public record as provided by law. Trust is not obligated to notify any party hereto of pending sale under any 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. The beneficiary's successor in interest that the grantor is lawful

The grantor covenants and agrees to and with the beneficiary and the beneficiary's successor in interest that the grantor is lawfully seized in fee simple of the real property and has a valid, unencumbered title thereto.

and that the grantor will warrant and forever defend the same against all persons whomsoever, and that the proceeds of the sale can be represented by the above described

and that the grantor 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 for household purposes (see Important Notice below).

(c) *primarily for grantor's personal, family or household purposes, or for business or commercial purposes.

(c) This deed applies to, inures to the benefit of and binds all parties to the contract, and the term "beneficiary" shall mean the holder and owner, including pledgee, of the contract secured hereby, whether or not named as a beneficiary herein.

personal representatives, successors and assigns. If the beneficiary is a trust, the trustee shall be deemed to be the beneficiary hereof.

In construing this trust deed, it is understood that the grantor, trustee and/or beneficiary may each be more than one person; that the trust deed shall be construed to mean and include the plural, and that generally all grammatical changes shall be made, as needed and implied to make the provisions hereof apply equally to corporations and to individuals.

Witness my hand and the seal of said trust at the City of Los Angeles, California, this _____ day of _____, 20____.

IN WITNESS WHEREOF, the grantor has executed this instrument 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 Z in making required disclosures; for this purpose use **Stevens-Ness Form No. 139**, or equivalent; if compliance with the Act is not required, disregard this notice.

not required, disregard his office
STATE OF OREGON, County of Multnomah) ss.
This instrument was acknowledged before me on December 29, 1974
by Jean C. Hendra and Diane M. Hennere
This instrument was acknowledged before me on _____, 19____
by _____
as _____
of _____

OFFICIAL SEAL
JEANNE E. TAYLOR
NOTARY PUBLIC - OREGON
COMMISSION NO. 019066
MY COMMISSION EXPIRES OCT. 5, 1998

Jeanne E. Taylor
 Notary Public for Oregon
 My commission expires 01/25/96

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Aspen Title Co the 3rd day
of Jan A.D. 19 95 at 11:21 o'clock A.M. and duly recorded in Vol. M95
of _____ for pages on Page 21.

On Page 21
Bernetha G. Letsch, County Clerk

By Pauline J. Melander

FEE \$15.00