

Record and Return to:
The Money Store
Document Recording
P.O. Box 13309
Sacramento, CA 95813-3309

DEED OF TRUST

THIS DEED OF TRUST ("Security Instrument") is made of this 4th day of March 1998 between the Grantor, JOHN FOUNTINELLE AND LEONIE FOUNTINELLE, HUSBAND AND WIFE

("herein Borrower"), the Trustee PRESTON, THORGRIMSON, SHIDLER, GATES & ELLIS C/O LUCY KIEVEL, ESQ., 3200 US BANCORP TOWER 111 SW 5TH AVE, PORTLAND, OR 97204-3688

("herein Trustee"), and the Beneficiary, TMS MORTGAGE INC., DBA THE MONEY STORE

whose address is 9570 SOUTHWEST BARBUR BLVD. #211
PORTLAND, OR 97219

("herein

Lender").

WHEREAS, Borrower is indebted to Lender in the Principal sum of U.S. \$ \$30,352.00 which indebtedness is evidenced by Borrower's Note dated 3/4/98 and extensions and renewals thereof (herein "Note"), providing for monthly installments of principal and interest, with the balance of the indebtedness, if not sooner paid, due and payable on 3/9/2023;

TO SECURE to Lender the repayment of the indebtedness evidenced by the Note, with interest thereon; the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Deed of Trust; and the performance of the covenants and agreements of Borrower herein contained, Borrower does hereby irrevocably grant and convey to Trustee in Trust, with power of sale, the following described property located in the

CITY OF CRESENT

COUNTY OF KLAMATH

STATE OF OREGON

SEE ATTACHED EXHIBIT "A"

Prepared By:
The Money Store
Nana Carroll
4837 Walt Avenue
North Highlands, CA 95660
918-617-0319

Being the same premises conveyed to the Borrower by deed of dated the day of , recorded on the day of in book Page , in the Records Office and which has the address of HCR #32 Box 34 S. Highway 97 Crescent, OR 97733 (herein "Property Address");

TOGETHER with all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances and rents, all of which shall be deemed to be and remain a part of the property covered by this Deed of Trust; and all of the foregoing, together with said property (or the leasehold estate if this Deed of Trust is on a leasehold) are hereinafter referred to as the "Property." Borrower covenants that Borrower is lawfully seised of the estate hereby conveyed and has the right to mortgage, grant and convey the Property, and that the Property is unencumbered, except for encumbrances of record. Borrower covenants that Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to encumbrances of record.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. **Payment of Principal and Interest.** Borrower shall promptly pay when due the principal and interest indebtedness evidenced by the Note late charges and prepayment penalty charges as provided in the Note or allowed by law.

2. **Funds for Taxes and Insurance.** Subject to applicable law or a written waiver by Lender, Borrower shall pay to Lender on the day monthly payments of principal and interest are payable under the Note, until the Note is paid in full, a sum (herein "Funds") equal to one-twelfth of the yearly taxes and assessments (including condominium and planned unit development assessments, if any) which may attain priority over this Deed of Trust and ground rents on the Property, if any, plus one-twelfth of the yearly premium installments for hazard insurance, plus one-twelfth of yearly premium installments for mortgage insurance, if any, all as reasonably estimated initially and from time to time by Lender on the basis of assessments and bills and reasonable estimates thereof. Borrower shall not be obligated to make such payments of Funds to Lender to the extent that Borrower makes such payments to the holder of a prior mortgage or deed of trust if such is an institutional lender.

OREGON-TMS Mortgage Inc., DBA The Money Store, a New Jersey Corporation 12/93

AFTER RECORDING SEND TO:
THE MONEY STORE
HOME IMPROVEMENT LENDING
1770 TRIBUTE ROAD #100
SACRAMENTO, CA 95816

TAX STATEMENT TO:
John Fountinelle Leonie Fountinelle
HCR #32 Box 34 S. Highway 97
Crescent, OR 97733



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If Borrower pays Funds to Lender, the Funds shall be held in an institution the deposits or accounts of which are insured or guaranteed by a Federal or State agency (including Lender if Lender is such an institution). Lender shall apply the Funds to pay said taxes, assessments, insurance premiums and ground rents. Lender may not charge for so holding and applying the Funds, analyzing said account or verifying and compiling said assessments and bills, unless Lender pays Borrower interest on the Funds and applicable law permits Lender to make such a charge. Borrower and Lender may agree in writing at the time of execution of the Deed of Trust that interest on the Funds shall be paid to Borrower, and unless such agreement is made or applicable law requires such interest to be paid, Lender shall not be required to pay Borrower any interest or earnings in the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds showing credits and debits to the Funds and the purpose for which each debit to the Funds was made. The Funds are pledged as additional security for the sums secured by this Deed of Trust.

If the amount of the Funds held by Lender, together with the future monthly installments of Funds payable prior to the due dates of taxes, assessments, insurance, premiums and ground rents, shall exceed the amount required to pay said taxes, assessments, insurance premiums and ground rents as they fall due, such excess shall exceed the amount required to pay said taxes, assessments, insurance premiums and ground rents as they fall due, such excess be, at Borrower's option either promptly repaid to Borrower or credited to Borrower on monthly installments of Funds. If the amount of the Funds held by Lender shall not be sufficient to pay taxes, assessments, insurance premiums and ground rents as they fall due, Borrower shall pay to Lender any amount necessary to make up the deficiency in one or more payments as Lender may require.

Upon payment in full of all sums secured by this Deed of Trust, Lender shall promptly refund to Borrower any Funds held by Lender. If under paragraph 17 hereof the Property is sold or the Property is otherwise acquired by Lender, Lender shall apply, no later than immediately prior to the sale of the Property or its acquisition by Lender, any Funds held by Lender at the time of application as a credit against the sums secured by this Deed of Trust.

3. Application of Payments. Unless applicable law provides otherwise, all payments received by Lender under the Note and paragraphs 1 and 2 hereof shall be applied by Lender first in payment of amounts payable to Lender by Borrower under paragraph 2 hereof, then to interest payable on the Note and then to the principal of the Note.

4. Prior Mortgages and Deeds of Trusts; Charges; Liens. Borrower shall perform all of Borrower's obligations under any mortgage, deed of trust or other security agreement with a lien which has priority over this Deed of Trust, including Borrower's covenants to make payments when due. Borrower shall pay or cause to be paid all taxes, assessments and other charges, fines and impositions attributable to the Property which may attain a priority over this Deed of Trust, and leasehold payments or ground rents, if any.

5. Hazard Insurance. Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage", and such other hazards as Lender may require and in such amounts and for such periods as Lender may require.

The insurance carrier providing the insurance shall be chosen by Borrower subject to approval by Lender; provided, that such approval shall not be unreasonably withheld. All insurance policies and renewals thereof shall be in a form acceptable to Lender. Lender shall have the right to hold the policies and renewals thereof, subject to the terms of any mortgage, deed of trust or other security agreement with a lien which has priority over this Deed of Trust.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower.

If the Property is abandoned by Borrower, or if Borrower fails to respond to Lender within 30 days from the date notice is mailed by Lender to Borrower that the insurance carrier offers to settle a claim for insurance benefits, Lender is authorized to collect and apply the insurance proceeds at Lender's option either to restoration or repair of the Property or to the sums secured by this Deed of Trust.

6. Preservation and Maintenance of Property; Leaseholds; Condominiums; Planned Unit Developments. Borrower shall keep the Property in good repair and shall not commit waste or permit impairment or deterioration of the Property and shall comply with the provisions of any lease of the Deed of Trust is on a leasehold. If this Deed of Trust is on a unit in a condominium or a planned unit development, Borrower shall perform all of Borrower's obligations under the declaration or covenants creating or governing the condominium or planned unit development, the by-laws and regulations of the condominium or planned unit development, and constituent documents.

7. Protection of Lender's Security. If Borrower fails to perform the covenants and agreements contained in this Deed of Trust, or if any action or proceeding is commenced which materially affects Lender's interest in the Property, then Lender, at Lender's option, upon notice to Borrower, may make such appearances, disburse such sums, including reasonable attorneys' fees, and take such action as is necessary to protect Lender's interest. If Lender required mortgage insurance as a condition of making the loan secured by this Deed of Trust, Borrower shall pay the premiums required to maintain such insurance in effect until such time as the requirement for such insurance terminates in accordance with Borrower's and Lender's written agreement or applicable law.

Any amounts disbursed by Lender pursuant to this Paragraph 7, with interest thereon, at the Note rate, shall become additional indebtedness of Borrower secured by this Deed of Trust. Unless Borrower and Lender agree to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower requesting payment thereof. Nothing contained in those paragraph 7 shall require Lender to incur any expense or take any action hereunder.

8. Inspection. Lender may make or cause to be made reasonable entries upon and inspections of the Property, provided that Lender shall give Borrower notice prior to any such inspection specifying reasonable cause thereof related to Lender's interest in the Property.

9. Condemnation. The proceed of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or part thereof, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender, subject to the terms of any mortgage, deed of trust or other security agreement with a lien which has priority over this Deed of Trust.

10. Borrower Not Released; Forbearance by Lender Not a Waiver. Extension of the time for payment or modification of amortization of the sums secured by this Deed of Trust granted by Lender to any successor in interest of Borrower shall not operate to release, in any manner, the liability of the original

Borrower and Borrower's successors in interest. Lender shall not be required to commence proceedings against such successor or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Deed of Trust by reason of any demand made by the original Borrower and Borrower's successors in interest. Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy.

11. Successors and Assigns Bound; Joint and Several Liability; Co-signers. The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Lender and Borrower, subject to the provisions of paragraph 16 hereof. All covenants and agreements of Borrower shall be joint and several. Any Borrower who co-signs this Deed of Trust, but does not execute the Note, (a) is co-signing this Deed of Trust only to mortgage, grant and convey that Borrowers' interest in the Property to Trustee under the terms of this Deed of Trust, (b) is not personally liable on the Note or under this Deed of Trust, and (c) agrees that Lender and any other Borrower hereunder may agree to extend, modify, forbear, or make any other accommodations with regard to the terms of this Deed of Trust or the Note without that Borrower's consent and without releasing that Borrower or modifying this Deed of Trust as to that Borrower's interest in the Property.

12. Notice. Except for any notice required under applicable law to be given in another manner, (a) any notice to Borrower provided for in this Deed of Trust shall be given by delivering it or by mailing such notice by certified mail addressed to Borrower at the Property Address or at such other address as Borrower may designate by notice to Lender as provided herein, and (b) any notice to Lender shall be given by certified mail to Lender's address state herein or to such other address as Lender may designate by notice to Borrower as provided herein. Any notice provided for in this Deed of Trust shall be deemed to have been given to Borrower or Lender when given in the manner designated herein.

13. Governing Law; Severability. The state and local laws applicable to this Deed of Trust shall be the laws of the jurisdiction in which the Property is located. The foregoing sentence shall not limit the applicability of Federal law to this Deed of Trust. In the event that any provision or clause of this Deed of Trust or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Deed of Trust or the Note which can be given effect without the conflicting provision and to this end the provisions of this Deed of Trust and the Note are declared to be severable. As used herein, "costs", "expenses", and "attorneys fees" include all sums to the extent not prohibited by applicable law, or limited herein.

14. Borrower's Copy. Borrower shall be furnished a conformed copy of the Note and of this Deed of Trust at the time of execution or after recordation hereof.

15. Rehabilitation Loan Agreement. Borrower shall fulfill all of Borrower's obligation under any home rehabilitation, improvement, repair, or other loan agreement which Borrower enters into with Lender. Lender, at Lender's option, may require Borrower to execute and deliver to Lender, in a form acceptable to Lender, an assignment of any rights, claims or defenses which Borrower may have against parties who supply labor, material or services in connection with improvements made to the Property.

16. Transfer of the Property or a Beneficial Interest in Borrower. If all or any part of the Property or an interest in it is sold or transferred by borrower (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person) without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by this Deed of Trust.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The Notice shall provide a period of not less than 30 days from the date of the notice is delivered or mailed within which Borrower must pay all sums secured by this Deed of Trust. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower. This option shall not be exercised by Lender if exercise is prohibited by Federal Law as of the date of this Deed of Trust.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

17. Acceleration; Remedies. Except as provided in paragraph 16 hereof, upon Borrower's breach of any covenant or agreement of Borrower in this Deed of Trust, including the covenants to pay when due any sums secured by this Deed of Trust, Lender prior to acceleration shall give notice to Borrower as provided in paragraph 12 hereof specifying: (1) the breach; (2) the action required to cure such breach; (3) a date, not unless than 10 days from the date the notice is mailed to Borrower, by which such breach must be cured; and (4) that failure to cure such breach on or before the date specified in the notice may result in acceleration of the sums secured by this Deed of Trust and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to assert in foreclosure proceedings the nonexistence of a default or any other defense of Borrower to acceleration and sale.

If the breach is not cured on or before the date specified in the notice, Lender, at Lender's option may declare all if the sums secured by this Deed of Trust to be immediately due and payable without further demand and may invoke the power of sale and any other remedies permitted by applicable law. Lender shall be entitled to collect in such proceeding all expenses incurred in pursuing the remedies provided in this paragraph 17, but not limited to, reasonable attorney's fees and costs of abstracts, title reports and documentary evidence.

If Lender invokes the power of sale, Lender shall send written notice as prescribed by applicable law to Borrower and to the other persons prescribed by applicable Law of the occurrence of the event of default and of Lender's election to cause the Property to be sold. Trustee shall give notice of sale by public advertisement as Trustee deems proper to protect the interest of Borrower and Lender. After the time required by applicable law, Trustee, without demand on Borrower, shall sell the Property at public auction to the highest bidder at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order Trustee determines. Trustee may postpone sale of any parcel of the Property by public announcement at the time and place on any previously scheduled sale. Lender or its designee may purchase the Property at any sale. Trustee shall deliver to purchases Trustee's deed conveying the Property without any covenant or warranty expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all costs and expenses of the sales, including, but not limited to, Trustee's fees as allowed by the law of the gross sale price and reasonable attorneys' fees; (b) to the discharge of all taxes, levies and assessments on the property if any, as provided by applicable

law; © to all sums secured by this Security Instrument; and (d) any excess to the person or persons legally entitled to it. Trustee shall not be required to take possession of the Property prior to the sale thereof or to deliver possession of the Property to the purchaser at such Sale.

18. **Borrower's right to Reinstate.** If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Deed of Trust discontinued at any time prior to earlier of (i) 5 days (or such other period as applicable law may specify for reinstatement) before sale of the property pursuant to any power of sale contained in this Deed of Trust; or (ii) entry of a judgement enforcing this Deed of Trust. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Deed of Trust and the Note had no acceleration occurred; (b) cures any default of any other covenants or agreements; © pays all expense incurred in enforcing this Deed of Trust, including, but not limited to, reasonable attorney's fees; and (d) takes such action as Lender may reasonably require to assure that the lien of this Deed of Trust, Lender's rights in the Property and Borrower's obligation to pay the sums secured by this Deed of Trust shall continue unchanged. Upon reinstatement by Borrower, this Deed of Trust and the obligations secured hereby shall remain fully as if no acceleration had occurred.

19. **Assignment of Rents; Appointment of Receiver; Lender on Possession.** As additional security, hereunder Borrower hereby assigns to Lender the rents of the Property, provided that Borrower shall, prior to acceleration under paragraph 17 here of or abandonment of the Property, have the right to collect and retain such as they become due and payable.

Upon acceleration under paragraph 17 hereof or abandonment of the Property, Lender, in person, by agent or by judicially appointed receiver, shall be entitled to enter upon, take possession of and manage the Property and to collect the rents of the Property including those past due. All rents collected by Lender or the receiver shall be applied first to payment of the costs of management of the property and collection of rents, including, but not limited to, receiver's fees, premiums on receiver's bonds and reasonable attorney's fees, and then to the sums secured by this Deed of Trust. Lender and the receiver shall be liable to account only for those rents actually received.

20. **Release.** Upon payment of all sums secured by this Deed of Trust, Trustee shall release this Deed of Trust by this Deed of Trust. Lender and the receiver shall be liable to account only for those rents actually received.

21. **Substitute Trust.** Lender, at its option, may from time to time remove Trustee, and appoint a successor trustee to any Trustee appointed hereunder by recording a Deed of Appointment. Without conveyance of the property, the successor trustee shall succeed to all the title, power and duties conferred upon Trustee herein and by applicable law.

**REQUEST FOR NOTICE OF DEFAULT
AND FORECLOSURE UNDER
SUPERIOR
MORTGAGES OR DEEDS OF TRUST**

Borrower and Lender request the Holder of any mortgage, deed of trust or other encumbrance with a lien which has priority over this Deed of Trust to give notice to Lender, at Lender's address set forth on page one of this Deed of Trust, of any default under the superior encumbrance and of any sale or other foreclosure action.

IN WITNESS WHEREOF, Borrower has executed this Deed of Trust.

Signed and Delivered
in the Presence of:

[Signature]
Witness

[Signature]
John Fountinelle - Grantor -Borrower

Witness

[Signature]
Leonie Fountinelle - Grantor -Borrower

-Borrower

-Borrower

STATE OF OREGON } ss
COUNTY OF KLAMATH
Deschutes

This Instrument was acknowledged before me on the date of march 4, 1998

by John Fountinelle Leonie Fountinelle



[Signature]
- Notary Public

EXHIBIT A

THIS EXHIBIT "A" IS THE LEGAL DESCRIPTION FOR John Fournelle, Leoria Fournelle AT HCR #32 Box 34 S. Highway 97 Cresco OR 97733

PARCEL 1

A PARCEL OF LAND SITUATE IN THE W1/2 OF SECTION 31, TOWNSHIP 24 SOUTH, RANGE 9 EAST OF THE WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING A POINT, BEING THE N/16 CORNER COMMON TO SECTIONS 31 AND 36, A 2 1/2" BRASS CAPPED STEEL PIPE; THENCE ALONG THE WEST LINE OF SECTION 31, NORTH 00 DEGREES 05' 43" EAST 184.61 FEET TO A POINT; THENCE ALONG A LINE AT RIGHT ANGLE TO U. S. HIGHWAY 97, SOUTH 64 DEGREES 43' 17" EAST 287.64 FEET TO A POINT ALONG THE NORTHWEST LINE OF U. S. HIGHWAY 97 AND 50 FEET FROM THE CENTERLINE THEREOF; THENCE ALONG THE NORTHWEST LINE OF U. S. HIGHWAY 97, SOUTH 25 DEGREES 16' 45" WEST 10.00 FEET TO A #5 STEEL ROD; THENCE ALONG A LINE AT RIGHT ANGLE TO U. S. HIGHWAY 97, NORTH 64 DEGREES 43' 17" WEST 200.00 FEET TO A #5 STEEL ROD; THENCE ALONG A LINE PARALLEL WITH U. S. HIGHWAY 97, SOUTH 25 DEGREES 16' 43" WEST 156.39 FEET TO A #5 STEEL ROD 21.36 FEET TO THE POINT OF BEGINNING.

WITH BEARINGS BASED ON SURVEY #3512 AS FILED WITH THE KLAMATH COUNTY ENGINEERS OFFICE.

EXCEPTING THEREFROM ANY PORTION LYING WITHIN THE U. S. 97 DALLAS-CALIFORNIA HIGHWAY RIGHT OF WAY.

PARCEL 2

A PARCEL OF LAND SITUATE IN THE W1/2 OF SECTION 31, TOWNSHIP 24 SOUTH, RANGE 9 EAST OF THE WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

STARTING AT THE NW CORNER OF SECTION 31, TOWNSHIP 24 SOUTH, RANGE 9 EAST OF THE WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON, THENCE RUNNING EAST 877.6 FEET TO THE IRON STAKE ON WEST SIDE OF THE DALLAS CALIFORNIA HIGHWAY; THENCE SOUTHERLY PARALLEL TO HIGHWAY 97; THENCE TO PLACE OF BEGINNING; THENCE 220 FEET WESTERLY AT RIGHT ANGLES TO SAID HIGHWAY 97; THENCE 100 FEET SOUTHERLY; THENCE 220 FEET EASTERLY TO HIGHWAY 97 AT RIGHT ANGLES; THENCE 100 FEET NORTHERLY, PARALLEL TO HIGHWAY 97, BACK TO PLACE OF BEGINNING.

LESS A STRIP 20 FEET BY 100 FEET SOLD TO STATE HIGHWAY DEPARTMENT ADJOINING HIGHWAY 97.

SUBJECT TO RESTRICTIONS, RESERVATIONS, EASEMENTS, COVENANTS, OIL, GAS, OR MINERAL RIGHTS OF RECORD, IF ANY.

STATE OF OREGON: COUNTY OF KLAMATH : ss.

Filed for record at request of Money Store the 24th day
of June A.D., 19 98 at 2:40 o'clock P. M., and duly recorded in Vol. M98
of Mortgages on Page 22057

FEE \$30.00

By Bernetha G. Letsch, County Clerk
Kathleen Ross