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Vol 149 Page 11573

## TRUST DEED

The Eagle Crest Vacation Club

P.O. Box 1215

Redmond, OR 97756

Grantor's Name and Address

Eagle Crest, Inc.

P.O. Box 1215

Redmond, OR 97756

Beneficiary's Name and Address

After recording, return to (Name, Address, Zip):

Resort Resources, Inc.

P.O. Box 1466

Bend, OR 97709

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 \_\_\_\_\_ and/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

MTC 4 775

THIS TRUST DEED, made this 26<sup>th</sup> day of March, 1999, between The Eagle Crest Vacation Club, an Oregon nonprofit mutual benefit corporation

AmeriTitle, an Oregon corporation

Eagle Crest, Inc., an Oregon corporation doing business as Eagle Crest Communities

## WITNESSETH:

Grant irrevocably grants, bargains, sells and conveys to trustee in trust, with power of sale, the property in Klamath County, Oregon described as:

Lot 387 of Running Y Resort, Phase 6 recorded May 18, 1998  
in the Official Records of Klamath County Recorder, and  
all improvements located thereon.

THIS DEED OF TRUST IS GIVEN TO SECURE PERFORMANCE BY TRUSTOR OF  
THE AGREEMENT DESCRIBED IN THE ADDENDUM ATTACHED HERETO.

together with all and singular the tenements, hereditaments and appurtenances and all other rights thereto belonging or in anywise now or hereafter accruing, 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 same

together with all and singular the tenements, hereditaments and appurtenances and all other rights thereto belonging or in anywise now or hereafter accruing, and the rents, issues and profits thereof and all fixtures now or hereafter attached to or used in connection with the property.

The grantor hereby agrees 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 hereinafter, 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 therefor.

3. To comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting the property, at the beneficiary's request, 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 \$ \_\_\_\_\_ 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 issued, 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 the beneficiary upon any indebtedness secured hereby and in such order as the 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 constitute or waive any default or notice of default hereunder or in any other deed, 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 be one part of the debt secured by this trust deed, without waiver of any rights arising from breach of any of the covenants hereof until such payments with interest as aforesaid, the property hereinafter 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 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, or any suit or action related to this instrument, including but not limited to its validity and enforceability to pay all costs and expenses, including evidence of title and the beneficiary's or trustee's attorney fees, the amount of attorney fees mentioned in this paragraph in all cases shall be fixed by the trial court and in the event of an appeal from any judgment of a trial court, grantor further agrees to pay such sum at the appellate court shall adjudge reasonable as the beneficiary's or trustee's attorney 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 of this state, its subsidiaries, affiliates, agents or branches, the United States or any agency thereof, or an escrow agent licensed under ORS 696.505 to 696.595.

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

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

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 for endorsement (in case of full reconveyances, 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 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 grantor in any reconveyance may be described as the "person or persons legally entitled thereto," and the recitals therein 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 be no 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 and 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 payment of taxes and other insurance policies or compensation, or awards for any taking or damage of the property, and the application of same to the indebtedness hereby secured, shall not cure or waive any default or notice of default hereunder, or invalidate in fact done pursuant to such action.

12. Upon default by grantor in payment of any indebtedness secured hereby or in grantor's performance of its obligations hereunder, 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 of 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 a 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 86.731 to 86.795.

13. After the trustee has commenced foreclosure by advertisement and sale as herein provided, at least ten days before the date the trustee conducts the sale, the grantor or any other person so privileged by ORS 86.732 may cure the default by paying to the trustee 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 such default, if the default is capable of being cured may be cured by tendering the performance required under the obligation of trust deed. In a case in addition to curing the default or default, the person effecting the cure shall pay to the beneficiary all costs and expenses actually incurred in relation to the obligation of the trust deed together with trustee's and attorney's fees not exceeding the amount 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 set of 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 at auction to the highest bidder for cash, payable at the time of sale. Trustee shall deliver to the purchaser a 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 and 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 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 interest 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 successor trustee appointed hereunder. Upon such appointment, and without conveyance to the successor trustee, the latter shall be deemed to have received all 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 of counties in which the property is situated, shall be conclusive proof of proper appointment of the successor trustee.

17. Trustee agrees this trust when this deed, duly executed and acknowledged as made, duly recorded is produced to him. 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.

The grantor covenants and agrees to and with the beneficiary and the beneficiary agrees to and with the grantor that the grantor is a fully seized in fee simple of the real property and has a valid, unencumbered title thereto, except as may be set forth in an addendum or exhibit attached hereto, and that the grantor will warrant and forever defend the same against all persons whomsoever.

**WARNING:** Unless grantor provides beneficiary with evidence of a surety coverage as required by the contract or loan agreement between them, beneficiary may purchase insurance to protect beneficiary's interest. This insurance may, but need not, also protect grantor's interest. If the collateral becomes damaged, the coverage purchased by beneficiary may not pay any claim made by or against grantor. Grantor may later cancel the coverage by providing evidence that grantor has obtained property coverage elsewhere. Grantor is responsible for the cost of any insurance coverage purchased by beneficiary, which cost may be added to grantor's contract or loan balance. If it is so added, the interest rate on the underlying contract or loan will apply to it. The effective date of coverage may be the date grantor's prior coverage lapsed or the date grantor failed to provide proof of coverage. The coverage beneficiary purchases may be considerably more expensive than insurance grantor might otherwise obtain alone and may not satisfy any need for property damage coverage or any mandatory liability insurance requirements imposed by applicable law.

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 (c) even if grantor is a natural person, are for business or commercial purposes.

This deed applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, assigns and all successors, personal representatives, successors and assigns. The term beneficiary shall be in the holder and owner, including pledgees, of the instrument secured hereby, whether or not named as a beneficiary herein.

In construing this trust deed, it is understood that the grantor, trustee and/or beneficiary may each be more than one person, that the context so requires, the singular shall be taken to mean and include the plural, and that general and grammatical rules shall be made, assumed and implied to make the provisions hereof apply equally to corporations, partnerships and individuals.

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 by making required disclosures for this purpose use Stevens-Ness Form No. 1312, or equivalent if compliance with the Act is not required, disregard this notice.

STATE OF OREGON, County of Deschutes

This instrument was acknowledged before me on

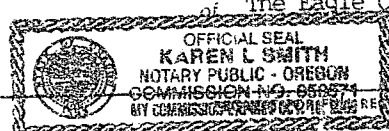
by

This instrument was acknowledged before me on

by Jerol E. Andres

as President

of The Eagle Crest Vacation Club



The Eagle Crest Vacation Club

Jerol E. Andres

Jerol E. Andres, President

Deschutes

188

Notary Public for Oregon. My commission expires 6-16-2006.

TO: Trustee

The undersigned is the legal owner and holder of all indebtedness secured by the foregoing trust deed. All sums secured by the trust deed have been fully paid and satisfied. You hereby are directed, on payment to you of the terms of the trust deed (which are delivered to you herewith together with the trust deed) and to reconvey, without warranty, to the parties designated by the terms of the trust deed the estate now held by you under the same. Mail reconveyance and documents to

DATED: 19

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.

Beneficiary

ADDENDUM TO DEED OF TRUST

11575

THIS DEED OF TRUST is given by Trustor/Grantor ("Grantor") to secure Grantor's obligations to Beneficiary under that certain Eagle Crest Vacation Club Vacation Program Agreement dated October 1, 1997, by and between Grantor and Beneficiary, and as the same may be amended (the "Agreement").

The Agreement provides, among other things, that Beneficiary (a) has an exclusive right to sell Ownerships in the Eagle Crest Vacation Club Vacation Program (the "Program") on behalf of Grantor and (b) shall receive the entire gross proceeds from Beneficiary's sale of Ownerships in the Program.

1 **Nondisturbance.** If Beneficiary or any other person (an "Acquiring Party") acquires the property or any portion thereof or interest therein through foreclosure, deed in lieu of foreclosure or other means by, through or under this Deed of Trust ("Property Transfer Events"):

(a) the Acquiring Party shall not disturb or impair the rights and interests, with respect to the Property so acquired, of Owners in the Program who are not in default of their purchase obligations and their obligations to the Association pertaining to the property or any portion thereof, as described in the Declaration and Governing Documents (including, without limitation, Owners who timely cure defaults which arise before or after a Property Transfer Event) (Without limiting the foregoing, the term "Owner" shall mean and include those person or entities who acquired Vacation Credits in any way, including for example and without limitation, parties who purchased Vacation Credits (1) directly from the Association or Beneficiary, (2) from a holder of a contract evidencing the obligation of a purchaser of Vacation Credits to pay the balance of the purchase price for those Vacation Credits through foreclosure, conveyance in lieu of foreclosure, other means pursuant to rights of the holder under the Purchase Contract ("Vacation Credits Transfer Event"), (3) in a Vacation Credits Transfer Event, or (4) from any other purchaser who acquired title in a Vacation Credits Transfer Event), and

(b) the Property so acquired shall not be considered "lost to use" for purposes of Section 3.3(c) of the Declaration; and

(c) the Acquiring Party shall honor all obligations of the Association as tenant under any valid and existing lease for the Property to the same extent as if the Association were still the tenant; and

(d) condemnation and insurance proceeds shall be divided between the Acquiring Party and the Association as provided in the Declaration notwithstanding anything in the Deed of Trust to the contrary as though the Acquiring Party was the Beneficiary with respect to the Property; and

(e) the interest of the Acquiring Party will be subject and subordinate to the Declaration.

2. **Subordination.** Beneficiary hereby subordinates its rights in the Property under the Deed of Trust to the Annexation to Declaration of Vacation Ownership Program (Eagle Crest Vacation Club - Running Y Ranch Resort, Pelican Springs Chalets) dated March 26, 1999, and recorded 3-30-99, 1999, Instrument No. 7755 \* and as may be amended from time to time (the "**Declaration**") with respect to the Property. Condemnation and insurance proceeds shall be divided between Beneficiary and Grantor as provided in the Declaration notwithstanding anything in the Deed of Trust to the contrary. This instrument shall not be interpreted to reduce and diminish any other or further nondisturbance rights which Owners may have  
\* 10 v m 99 page 11214

Beneficiary represents and warrants that Beneficiary is the sole beneficiary of the Deed of Trust and is the sole holder of the obligation(s) secured thereby, and Beneficiary has not assigned or otherwise transferred the same or Beneficiary's rights thereunder or any interest therein

**GRANTOR:** **THE EAGLE CREST VACATION CLUB,** an Oregon nonprofit mutual benefit corporation

BY Jerol E. Andres

Name Jerol E. Andres

Title President

Date 3/26/99

**BENEFICIARY:** **EAGLE CREST, INC.,** an Oregon corporation doing business as Eagle Crest Communities

BY Jerol E. Andres

Jerol E. Andres, President

Date 3/26/99

State of Oregon )  
 ) ss.  
County of Deschutes )

On this 26<sup>th</sup> day of March, 19 99, before me, the undersigned, a Notary Public, in and for said State, personally appeared Jerol E. Andres, known to me, or identified to me on the basis of satisfactory evidence, to be the President of the corporation that executed the instrument and that the foregoing instrument was signed on behalf of said corporation by authority of a resolution of its board of directors and acknowledged to me that such corporation executed the same.

WITNESS MY HAND AND OFFICIAL SEAL

Karen L. Smith  
Notary Public

Residing at: Bend OR

Commission Expires: 10-16-2000





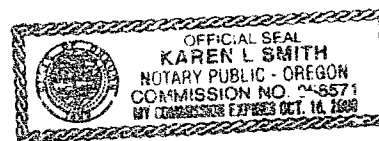
11577

State of Oregon )  
 ) ss.  
 County of Deschutes )

On this 26<sup>th</sup> day of March, 1999, before me, the undersigned, a Notary Public, in and for said State, personally appeared Jerol F. Andres, known to me, or identified to me on the basis of satisfactory evidence, to be the President of the corporation that executed the instrument and that the foregoing instrument was signed on behalf of said corporation by authority of a resolution of its board of directors and acknowledged to me that such corporation executed the same

WITNESS MY HAND AND OFFICIAL SEAL

Karen L. Smith  
 Notary Public  
 Residing at: Bend, OR  
 Commission Expires: 10-16-2000



STATE OF OREGON - COUNTY OF CLATSOP ss.

Filed for record at request of AMERITITLE  
 of MARCH AD 1999 at 3:37  
 of MORTGAGES

the 31ST  
 P. M. and duly recorded in Vol. M99  
 on Page 11573

FILE 30.00

Linda Smith, County Clerk

by Hardin Ross