

68770

Vol. *m*

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This Indenture, made this 26th day of September, 1972, between

T. P. PACKING CO., (a Corporation)

herein

after called "Mortgagor", and BANK OF KLAMATH COUNTRY
hereinafter called "Mortgagee";

WITNESSETH:

For value received by the Mortgagor from the Mortgagee, the Mortgagor has bargained and sold and does hereby grant, bargain, sell and convey unto the Mortgagee, all the following described property situate in

Klamath County, Oregon, to wit:

As per Exhibit A attached hereto and made a part hereof

together with the tenements, hereditaments and appurtenances now or hereafter thereunto belonging or in anywise appertaining; also all such apparatus, equipment and fixtures now or hereafter situate on said premises, as are ever furnished by landlords in letting unfurnished buildings similar to the one situated on the real property hereinabove described, including, but not exclusively, all fixtures and personal property used or intended for use for plumbing, lighting, heating, cooking, cooling, ventilating or irrigating, linoleum and other floor coverings attached to floors, and shelving, counters, and other store, office and trade fixtures; also the rents, issues and profits arising from or in connection with the said real and personal property or any part thereof.

To Have and To Hold the same unto the Mortgagee, its successors and assigns, forever.

And the Mortgagor does hereby covenant to and with the Mortgagee, that he is lawfully seized in fee simple of the said real property, that he is the absolute owner of the said personal property, that the said real and personal property is free from encumbrances of every kind and nature, and that he will warrant and forever defend the same against the lawful claims and demands of all persons whomsoever.

SEP 27 11 05 AM 1972

This conveyance is intended as a mortgage to secure performance of the covenants and agreements herein contained, to be by the Mortgagor kept and performed, and to secure the payment of the sum of \$.....400,000.00..... and interest thereon in accordance with the tenor of a certain promissory note executed by.....

T.P. PACKING CO. (a Corporation)

dated.....September 26....., 19.....72., payable to the order of the Mortgagee in installments not less than \$.....4,855.00....., each,including..... interest, on the.....26th..... day of each month commencing November 26 19..... 72, until..... September 26 82, when the balance then remaining unpaid shall be paid.

The Mortgagor does hereby covenant and agree to and with the Mortgagee, its successors and assigns:

1. That he will pay, when due, the indebtedness hereby secured, with interest, and all liens and utility charges upon said premises or for services furnished thereto. In addition thereto, he will pay, at the time of payment of each installment of principal and interest, such amount as the Mortgagee shall estimate to be sufficient to produce, at least one month prior to the time when payment thereof shall become due, the amount of (a) taxes, assessments and other governmental rates and charges against said premises and (b) premiums upon insurance against loss or damage to said premises. If the sums so paid shall not suffice to produce the amount required for said purposes at least one month before payment thereof becomes due, he will also pay, upon demand, such amount as may be required therefor. The Mortgagee shall, upon the written direction of the Mortgagor, and may, without such direction, apply said funds to the purposes aforesaid, but the receipt of such funds shall not, in the absence of such direction, impose any duty upon the Mortgagee to disburse the same or relieve the Mortgagor from his covenants to pay the said obligations or to keep the premises insured.

2. That he will not commit or permit strip or waste of the said premises or any part thereof; that he will keep the real and personal property hereinabove described in good order and repair and in tenantable condition; that he will promptly comply with any and all municipal and governmental rules and regulations with reference thereto; that if any of the said property be damaged or destroyed by any cause, he will immediately reconstruct or repair the same so that, when completed, it shall be worth not less than the value thereof at the time of such loss or damage; provided, that if such loss or damage shall be caused by a hazard against which insurance is carried, the obligation of the Mortgagor to repair or reconstruct shall not arise unless the Mortgagee shall consent to the application of insurance proceeds to the expense of such reconstruction or repair.

3. That he will, at his own cost and expense, keep the building or buildings now or hereafter upon said premises, together with all personal property covered by the lien hereof, insured against loss by fire and against loss by such other hazards as the Mortgagee may from time to time require, in one or more insurance companies satisfactory to or designated by the Mortgagee in an aggregate amount not less than the amount of the indebtedness hereby secured (unless the full insurable value of such building or buildings is less than the amount hereby secured, in which event the Mortgagor shall insure to the amount of the full insurable value); that all policies of insurance upon said premises, including policies in excess of the amount hereinabove mentioned and policies against other hazards than those required, shall contain such provisions as the Mortgagee shall require and shall provide, in such form as the Mortgagee may prescribe, that loss shall be payable to the Mortgagee; that all such policies and receipts showing full payment of premiums therefor shall be delivered to and retained by the Mortgagee during the existence of this mortgage; that at least 5 days prior to the expiration of any policy or policies he will deliver to the Mortgagee satisfactory renewals thereof together with premium receipts in full; that if any policy or policies shall impose any condition upon the liability of the insurer or shall contain any "average clause" or other provision by which the insurer may be liable for less than the full amount of the loss sustained, he will, as often as the Mortgagee may require, provide the Mortgagee with all such evidence as it may request concerning the performance of such condition or the existence of any facts or the value of the property insured and, if it shall appear to the Mortgagee that the insurance is prejudiced by the acts or omissions of the Mortgagor or that the coverage is inadequate, the Mortgagor will do such acts and things and obtain such further insurance as the Mortgagee may require; that the Mortgagee may, at its option, require the proceeds of any insurance policies upon the said premises to be applied to the payment of the indebtedness hereby secured or to be used for the repair or reconstruction of the property damaged or destroyed.

4. That he will execute or procure such further assurance of his title to the said property as may be requested by the Mortgagee.

5. That in case the Mortgagor shall fail, neglect or refuse to do or perform any of the acts or things herein required to be done or performed, the Mortgagee may, at its option, but without any obligation on its part so to do, and without waiver of such default, procure any insurance, pay any taxes or liens or utility charges, make any repairs, or do any other of the things required, and any expenses so incurred and any sums so paid shall bear interest at 8% per annum and shall be secured hereby.

6. That, if any default be made in the payment of the principal or interest of the indebtedness hereby secured or in the performance of any of the covenants or agreements of this mortgage, the Mortgagee may, at its option, without notice, declare the entire sum secured by this mortgage due and payable and foreclose this mortgage.

7. That, in the event of the institution of any suit or action to foreclose this mortgage, the Mortgagor will pay

7. That, in the event of the institution of any suit or action to foreclose this mortgage, the Mortgagor will pay such sum as the court may adjudge reasonable as attorney's fees in connection therewith and such further sums as the Mortgagee shall have paid or incurred for extensions of abstracts or title searches or examination fees in connection therewith, whether or not final judgment or decree therein be entered and all such sums are secured hereby; that in any such suit, the court may, upon application of the plaintiff and without regard to the condition of the property or the adequacy of the security for this indebtedness hereby secured and without notice to the Mortgagor or any one else, appoint a receiver to take possession and care of all said mortgaged property and collect and receive any or all of the rents, issues and profits which had theretofore arisen or accrued or which may arise or accrue during the pendency of such suit; that any amount so received shall be applied toward the payment of the debt secured hereby, after first paying therefrom the charges and expenses of such receivership; but until a breach or default by the Mortgagor in one or more of his covenants or agreements herein contained, he may remain in possession of the mortgaged property and retain all rents actually paid to and received by him prior to such default.

8. The word "Mortgagor", and the language of this instrument shall, where there is more than one mortgagor, be construed as plural and be binding jointly and severally upon all mortgagors and the word "Mortgagee" shall apply to any holder of this mortgage. Masculine pronouns include feminine and neuter. All of the covenants of the Mortgagor shall be binding upon his heirs, executors, administrators, successors and assigns and inure to the benefit of the successors and assigns of the Mortgagee. In the event of any transfer of the property herein described or any part thereof or any interest therein, whether voluntary or involuntary or by operation of law, the Mortgagee may, without notice to the Mortgagor or any one else, extend the time of payment, execute releases or partial releases from the lien of this mortgage or in any other respect modify the terms hereof without thereby affecting the personal primary liability of the Mortgagor for the payment of the indebtedness hereby secured. No condition of this mortgage shall be deemed waived unless the same be expressly waived in writing by the Mortgagee. Whenever any notice, demand, or request is required by the terms hereof or by any law now in existence or hereafter enacted, such notice, demand or request shall be sufficient if personally served on one or more of the persons who shall at the time hold record title to the property herein described or if enclosed in a postpaid envelope addressed to one or more of such persons or to the Mortgagor at the last address actually furnished to the Mortgagee or at the mortgaged premises and deposited in any post office, station or letter box.

In Witness Whereof, the Mortgagor..... ha .s. hereunto set.....his.....hand..... and seal.....
the day and year first hereinabove written.

T.P. PACKING CO. (a Corporation)

William F. Rehfuß (SEAL)
William F. Rehfuß, President

.....(SEAL)

.....(SEAL)

.....(SEAL)

STATE OF OREGON

County of.....Klamath.....

} ss.

September 26

A. D. 1972

Personally appeared the above-named.....William F. Rehfuß, President of T.P.

PACKING CO. (a Corporation)

and acknowledged the foregoing instrument to be.....his.....voluntary act and deed. Before me:

Caroline H. Marshall
Notary Public for Oregon.

My Commission Expires: Feb. 9, 1974



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EXHIBIT A

The following described real property situate in Klamath County, Oregon:

PARCEL 1

Starting at quarter corner between Sections 16 and 17 in Twp. 39 South, Range 9 E.W.M., said point being also the SE corner of Lot 2 in said Section 17; thence W. along the South line of said Lot 2, 600 feet; thence North along a line running North and South through the center of the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of said Section 17 (being Lot 2 of said Section) 811.67 feet, more or less, to the intersection of said North and South line with the Easterly line of the right-of-way of the California Northeastern Railway; thence Northeasterly along the said Easterly line of the right-of-way of said railway 1187.87 feet, more or less, to the intersection of said Easterly line of said railway right-of-way with the East line of said Section 17; thence South 1797.89 feet, more or less, to the point of beginning.

PARCEL 2

Beginning at a point on the South line of Lot 2 of Section 17, Twp. 39 S., Range 9 E.W.M., 660 feet West of the quarter section corner common to Sections 16 and 17 in said Township and range, running thence North 811.67 feet to the Southeasterly right-of-way of the California, Northeastern Railroad (Southern Pacific Railroad); thence Southwesterly along the right of way of the said Railroad to the South line of said Lot 2; thence East 540 feet, more or less, to the place of beginning, and subject to all rights of way of record.

PARCEL 3

690 feet off the North side of the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 17, Twp. 39 S., Range 9 E.W.M., in Klamath County, Oregon, EXCEPTING AND RESERVING THEREFROM a parcel of land lying in the Southwest corner of said tract described as follows: Beginning at the Southwest corner of the land herein described, running thence Easterly along the Southerly line of said tract, 219 feet; thence Northwesterly at an angle of 22° 56' 2" to the Westerly line of said tract; thence Southerly 546 feet to the place of beginning, the same being a triangular tract.

ALSO, a portion of the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 17, Twp. 39 S., Range 9 E.W.M., more particularly described as follows: Beginning at a point on the West line of the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 17, Twp. 39 S., Range 9 E.W.M., which is 430 feet North of the Southwest corner of the North 20.27 acres of the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 17; thence East 44.7 feet; thence North 22° 00' West a distance of 85 feet, more or less, to the Southeasterly right of way line of the Southern Pacific Right of Way; thence South 33° 29' West along said Right of Way line a distance of 23 feet, more or less, to the West line of the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 17; thence South 62 feet, more or less, to the point of beginning.

PARCEL 4

Government Lots 3 and 4 together with the following described parcel lying and all being in Section 2, Twp. 41 S., Range 11 E.W.M., beginning at a point in the section line marking the Southwesterly corner of Government Lot 4; thence South along said section line 500 feet, more or less, to a point, which point in the Northwesterly corner of property conveyed to Lloyd Nicholson by Partition Deed recorded June 20, 1962, in Vol. 338 at page 307, Klamath County Deed Records; thence South 89° 14' East, 1057.7 feet; thence South 2° 09' East 356.6 feet; thence North 80° 27' West 114.0 feet; thence South 0° 36' West 210.8 feet; thence South 88° 44' East 243.5 feet; thence South 3° 45' East 30.0 feet; thence South 89° 01' East 384.6 feet; thence South 15° 45' East 134.1 feet; thence South 4° 05' East 296.0 feet; thence South 8° 55' West 239.1 feet; thence South 89° 32' East 61.9 feet; thence South 3° 15' East 37.1 feet; thence North 88° 23' East 95.8 feet, more or less, to a point on the centerline of a field drain, as the same is now located and constructed; thence South 1° 18' East along the centerline of said field drain 590 feet, more or less, to its intersection with the line marking the Northern boundary of the right-of-way of "D" Canal of the U. S. Bureau of Reclamation Klamath Project as the same is now located and constructed; thence Easterly along said right-of-way line 890 feet,

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more or less, to the centerline of said section; thence North along said centerline of said section to its intersection with the South line of Government Lot 3; thence westerly along the South line of Government Lots 3 and 4 to the point of beginning.

PARCEL 5

A tract of land situate in the SW¹/₄ of Section 16, Twp. 39 S., Range 9 E.W.M., more particularly described as follows: Beginning at an iron pin situated on the Southeastern right-of-way line of the Old Midland Road, said point being located South a distance of 1795.5 feet and South 29° 11' East a distance of 191.67 feet from the Northwest corner of said Section 16; thence South 59° 12' East a distance of 162.58 feet to an iron pin; thence South 30° 00' West a distance of 56.54 feet to an iron pin located on the Northeastern right-of-way line of the U.S.B.R. A-3-1 (F-16) canal; thence North 74° 15' West along the northeastern right-of-way line of said canal a distance of 149.0 feet to an iron pin located on the southeastern right-of-way line of the Old Midland Road; thence Northeastern along the Southeastern right-of-way line of said road on the arc of a curve to the right a distance of 97.45 feet, more or less, to the point of beginning.

PARCEL 6

A tract of land situate in the SW¹/₄ of Section 16, Twp. 39 S., Range 9 E.W.M., more particularly described as follows: Beginning at an iron pin on the Southeastern right-of-way line of the Old Midland Road, said point being South 77° 15' East of a distance of 168.0 feet from an iron pipe which is South a distance of 1795.5 feet from the iron pin marking the Northwest corner of said Section 16; thence South 49° 45' East a distance of 170.0 feet to an iron pin; thence South 30° 00' West a distance of 120.06 feet to a point; thence North 59° 12' West a distance of 163.56 feet, more or less, to a point on the Southeastern line of the Old Midland Road; thence Northeastern, along said Southeastern line, being on the arc of a curve to the right, a distance of 148.35 feet, more or less, to the point of beginning.

SAVING AND EXCEPTING any portion thereof contained in the Midland Highway as said highway has been re-located.

PARCEL 7

A tract of land in the NW¹/₄ of Section 16, Twp. 39 S., Range 9 E.W.M., described as follows: Beginning at a point 30 feet East and 30 feet North of the quarter corner common to Section 16 and 17 in Twp. 39 South, Range 9 E.W.M., running thence East 1658 feet, more or less, to the West boundary line of Government Drain Ditch, 1-G-1; thence along the Western boundary line of said Drain Ditch, North 10° 45' East 402.3 feet; thence North 39° 54' West 1338 feet, more or less, to an intersection with the Eastern boundary line of Midland Market Road; thence along the Eastern boundary of the said Market Road in a Southwestern direction to the point of beginning, less and EXCEPTING rights of way for irrigation ditches and drains heretofore deeded to the United States of America.

EXCEPTING THEREFROM the following described tract of land deeded to Ronald L. McDaniel et ux, by deed recorded in Deed Volume 354 at page 428. Beginning at an iron pin situated on the Southeastern right-of-way line of the Old Midland Road, said point located South a distance of 1795.5 feet and South 77° 15' East a distance of 168.0 feet from the Northwest corner of said Section 16; thence South 49° 45' East a distance of 170.0 feet to an iron pin; thence South 2° 55' East a distance of 166.9 feet, more or less, to an iron pin on the Northern right-of-way line of the U.S.B.R. A-3-1 (F-16) canal; thence Northeastern along the Northern right-of-way line of said canal to the intersection of the Western right-of-way line of the U.S.B.R. A-3 canal; thence Northwestern along the Western right-of-way line of said canal to the intersection with the Southeastern right-of-way line of the Old Midland Road; thence Southwestern along the Southeastern right-of-way line of said road to the point of beginning.

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ALSO EXCEPTING THEREFROM a tract of land situate in the SW 1/4 of Section 16, Twp. 39 S., Range 9 E., M., more particularly described as follows: Beginning at an iron pin on the Southeastery right-of-way of the Old Midland Road, said point being South 77° 15' East a distance of 168.0 feet from an iron pipe which is South a distance of 1795.5 feet from the iron pin marking the Northwest corner of said Section 16; thence South 49° 45' East a distance of 170.0 feet to an iron pin; thence South 30° 00' West a distance of 120.06 feet to a point; thence North 59° 12' West a distance of 163.58 feet, more or less, to a point on the Southeastery line of Old Midland Road; thence North-easterly, along said Southeastery line, being on the arc of a curve to the right, a distance of 148.25 feet, more or less, to the point of beginning.

ALSO EXCEPTING THEREFROM a tract of land situate in the SW 1/4 of Section 16, Twp. 39 S., Range 9 E., M., more particularly described as follows: Beginning at an iron pin situated on the Southeastery right-of-way line of the Old Midland Road, said point being located South a distance of 1795.5 feet and South 29° 11' East a distance of 191.67 feet from the Northwest corner of said Section 16; thence South 59° 12' East a distance of 163.58 feet to an iron pin; thence South 30° 00' West a distance of 56.54 feet to an iron pin located on the Southeastery right-of-way line of the U.S.R.R. A-3-1 (F-16) canal; thence North 74° 15' West along the Southeastery right-of-way line of said canal a distance of 149.0 feet to an iron pin located on the Southeastery right-of-way line of the Old Midland Road; thence North-easterly along the Southeastery right-of-way line of said road on the arc of a curve to the right a distance of 97.45 feet, more or less, to the point of beginning.

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record at request of KLAMATH COUNTY TITLE CO
this 27th day of SEPTEMBER A. D., 1972 at 11:06 o'clock A.M., and duly recorded in
Vol. M 72 of MORTGAGES on Page 10951

FFE \$ 12.00

WM. D. MILNE, County Clerk
By Karel Drazil