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## SECOND MORTGAGE

28-3506  
THIS SECOND MORTGAGE, made this 26th day of February

1973, between LOWLAND FARMS, INC., a corporation duly organized and existing under the laws of the State of Oregon, hereinafter called the Mortgagor, and CLAUDE S. KERNS and FRANCES E. KERNS, husband and wife, hereinafter called the Mortgagee,

WITNESSETH, that said Mortgagor, in consideration of One Hundred Thirty Four Thousand Four Hundred Dollars (\$134,400.00), to it paid by said Mortgagee, does hereby grant, bargain, sell and convey unto said Mortgagee, their heirs, executors, administrators, successors, personal representatives and/or assigns that certain real property situated in Klamath County, State of Oregon, bounded and described as follows:

PARCEL 1:

All those portions of Lots 7, 8, 9, 12 and 13 in Section 32, Township 39 South, Range 8 East of the Willamette Meridian and of the NW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 5, Township 40 South, Range 8 East of the Willamette Meridian which are southeasterly of the strip of land sold to Weyerhaeuser Timber Company by deed dated April 28, 1928, recorded June 19, 1928 in Deed Book 80 at Page 539, Records of Klamath County, Oregon, as corrected by deed to same grantee dated January 2, 1929, recorded January 3, 1929 in Deed Book 85 at Page 104,

Lots 1, 2, 3, 5, 6, 7 and 8, the N $\frac{1}{2}$ NW $\frac{1}{4}$ , and SW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 4, Township 40 South, Range 8 East of the Willamette Meridian, SAVING AND EXCEPTING THEREFROM that portion thereof lying northerly and easterly of the center line of the Keno Irrigation Drainage Canal as described in the deed from B. E. Kerns, et ux, to John V. Lilly and Edna B. Lilly, husband and wife, dated July 8, 1947, recorded July 8, 1947 in Deed Book 208 at Page 327, and further SAVING AND EXCEPTING the SW $\frac{1}{4}$ SE $\frac{1}{4}$  of said Section 4, as conveyed to Claude S. Kerns, et ux, by deed recorded in Book 213 at Page 169, Deed Records of Klamath County, Oregon.

All of Lots 1, 2, 3, 4, 5, 6, 7, 14, 15, 16, 17 of Section 5, Township 40 South, Range 8 East of the Willamette Meridian, and that portion of Lot 8 of Section 5, Township 40 South, Range 8 East of the Willamette Meridian, which lies southeasterly of the said strip of land sold to said Weyerhaeuser Timber Company by said deed recorded in Deed Book 80 at Page 539 as corrected by said deed recorded in Book 85 at Page 104; SAVING AND EXCEPTING from said portion of Lot 8, that portion thereof conveyed to Edna B. Lilly, by deed dated November 16, 1951, recorded November 16, 1951 in Book 251 at Page 111, Deed Records of Klamath County, Oregon.

ALSO EXCEPTING any portion of Lot 8 lying Westerly of Keno Irrigation Drain.

All of Lots 13 and 14 of Section 8, Township 40 South, Range 8 East of the Willamette Meridian.

All of Lots 4, 5 and 13, West  $\frac{1}{2}$  northeast  $\frac{1}{4}$  northwest  $\frac{1}{4}$ ; and Lot 12 lying West of the east  $\frac{1}{2}$  southeast  $\frac{1}{4}$  northwest  $\frac{1}{4}$  of Section 9, Township 40 South, Range 8 East of the Willamette Meridian.

**PARCEL II:**

That portion of Lots 2 and 7 of Section 4, Township 40 South, Range 8 East of the Willamette Meridian, which constitutes the southwest  $\frac{1}{4}$  southeast  $\frac{1}{4}$  of said Section 4 and Government Lot 4 of Section 4, Township 40 South, Range 8 East of the Willamette Meridian.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and which may hereafter thereto belong or appertain, and the rents, issues and profits therefrom, and any and all fixtures upon said premises at the time of the execution of this second mortgage or at any time during the term of this mortgage.

To Have and to Hold the said premises with the appurtenances unto the said mortgagee, their heirs, executors, administrators, successors, personal representatives and/or assigns forever.

This mortgage is intended to secure the payment of a promissory note of which the following is a substantial copy:

**PROMISSORY NOTE**

\$134,400.00

February 26th, 1973

For value received, Lowland Farms, Inc., a corporation, promises to pay Claude S. Kerns and Frances E. Kerns, husband and wife, or the survivor thereof, at Medford, Oregon, the sum of One Hundred Thirty Four Thousand Four Hundred Dollars (\$134,400.00) in lawful money of the United States of America, with interest thereon, in like lawful money, at the rate of seven and one half percent (7½%) per annum from the 26th day of February, 1973, until paid, payable in 180 installments of not less than \$1,242.28 in any one payment, which said payment includes the full amount of interest due on this note at the time of the payment of each installment. The first payment to be made on the 26th day of March, 1973, and a like payment on the 26th day of each month thereafter, until the whole sum, principal and interest, has been paid; if any of said installments is not so paid, the whole sum of both principal and interest to become immediately due and collectible at the option of the holder of this note. If this note is placed in the hands of an attorney for collection, the corporation promises and agrees to pay the reasonable collection costs of the holder hereof; and if suit or action is filed hereon, also promises to pay (1) holder's reasonable attorneys fees to be fixed by the trial court and (2) if any appeal is taken from any decision of the trial court, such further sums as may be fixed by the appellate court, as the holder's reasonable attorneys fees in the appellate court.

In Witness Whereof, the vice-president and secretary-treasurer of said corporation, under authority of a resolution adopted by its

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Board of Directors, have hereunto signed the name of the corporation and affixed its corporate seal.

LOWLAND FARMS, INC.

By Eugene V. Meyerding  
Vice-president

By John R. Porto  
Secretary-Treasurer

And said Mortgagor covenants to and with the Mortgagee, their heirs, executors, administrators, successors, personal representatives and/or assigns, that it is lawfully seized in fee simple of said premises and has a valid, unencumbered title thereto, except that mortgage, including the terms and provisions thereof, dated March 11, 1963, recorded March 18, 1963, in Mortgage Book 216 at Page 138, given to secure the payment of \$90,000.00 with interest thereon and such future advances as may be provided therein, executed by Claude Kerns and Frances E. Kerns, husband and wife, to the Prudential Insurance Company of America, a corporation, and will warrant and forever defend the same against all persons; that it will pay said note, principal and interest, according to the terms thereof; that while any part of said note remains unpaid, it will pay all taxes, assessments and other charges of every nature which may be levied or assessed against said property, or this mortgage or the note above described, when due and payable and before the same may become delinquent; that it will promptly pay and satisfy any and all liens or encumbrances that are or may become liens on the premises or any part thereof superior to the lien of this mortgage, save and except the Prudential mortgage herein above described; that it will keep the buildings now on or which may be hereafter erected on the premises insured in favor of the mortgagee against loss or damage by fire in the sum of \$31,000.00; in such company or companies as the mortgagee may designate, and will have all policies of insurance on said property made payable to the mortgagee as their interest may appear and will deliver all policies of insurance on said premises to the mortgagee as soon as insured; that it will keep the

buildings and improvements on said premises in good repair and will not commit or suffer any waste of said premises.

Now, therefore, if said mortgagor shall keep and perform the covenants herein contained and shall pay said note according to its terms; this conveyance shall be void, but otherwise shall remain in full force as a mortgage to secure the performance of all of said covenants and the payment of said note; it being agreed that a failure to perform an covenant herein, or if proceeding of any kind be taken to foreclose any lien on said premises or any part thereof, the mortgagee shall have the option to declare the whole amount unpaid on said note or on this mortgage at once due and payable, and this mortgage may be foreclosed at any time thereafter. And if the mortgagor shall fail to pay any taxes or charges or any lien, encumbrance or insurance premium as above provided for, the mortgagee may at their option do so, and any payment so made shall be added to and become a part of the debt secured by this mortgage and shall bear interest at the same rate as said note without waiver, however, any right arising to the mortgagee for breach of covenant. And this mortgage may be foreclosed for principal, interest and all sums paid by the mortgagee at any time while the mortgagor neglects to repay any sums so paid by the mortgagee. In the event of any suit or action being instituted to foreclose this mortgage, the mortgagor agrees to pay (1) mortgagees reasonable attorneys fees to be fixed by the trial court and (2) if any appeal is taken from any decision of the trial court, such further sum as may be fixed by the appellate court, as the mortgagees reasonable attorneys fees in the appellate court. In the event of any suit or action being instituted to foreclose this mortgage, the mortgagor further agrees to pay all costs and disbursements allowed by law in either the trial court or appellate court together with the reasonable costs incurred by the mortgagee for title reports and title search, all such sums to be secured by the lien of this mortgage and included in the decree of foreclosure.



Each and all of the covenants and agreements herein contained shall apply to and bind the heirs, executors, administrators, successors, personal representatives and/or assigns of said mortgagor and of said mortgagee respectively.

In case suit or action is commenced to foreclose this mortgage, the court may, upon motion of the mortgagee appoint a receiver to collect the rents and profits arising out of said premises during the pendency of such foreclosure, and apply the same to the payment of the amount due under this mortgage, first deducting all proper charges and expenses attending the execution of said trust.

In construing this mortgage, it is understood that the mortgagee may be more than one person; that if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

In Witness Whereof, LOWLAND FARMS, INC. pursuant to a resolution of its Board of Directors, duly and legally adopted, has caused these presents to be signed by its vice-president and secretary-treasurer, and its corporate seal to be hereunto affixed this 26th day of February, 1973.

LOWLAND FARMS, INC.

By Eugene V. Meyerding  
Vice-president

By John R. Porto  
Secretary-Treasurer

STATE OF OREGON )  
ss.  
County of Jackson)

On this 26th day of February, 1973, before me appeared Eugene V. Meyerding and John R. Porto, both to me personally known,

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who being duly sworn, did say that he, the said Eugene V. Meyerding is the Vice-president, and he, the said John R. Porto, is the Secretary-Treasurer of Lowland Farms, Inc., the within named corporation, and that the seal affixed to said instrument is the corporate seal of said corporation, and that the said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and Eugene V. Meyerding and John R. Porto acknowledged said instrument to be the free act and deed of said corporation.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal the day and year last above written.

*[Signature]*  
Notary Public for Oregon  
My Commission Expires 1-25-74

*Return to:*

*T/A*

*130 West 6th Ave.*

*Medford, Ore. 97501*

STATE OF OREGON,  
County of Klamath

Filed for record at request of

Transamerica Title Ins. Co.

this 2nd day of March A.D. 1972

at 4:13 o'clock PM, and of

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Wm. A. MILNE, County Clerk

*[Signature]* Deputy

Fee \$12.00

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