WHEN RECORDED MAIL TO:
James G. Leathers, Jr.
Chickering & Gregory
One Eleven Sutter Street
San Francisco, CA 94104

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MORTGAGE OF LEASEHOLD INTEREST

23109

THIS MORTGAGE, made this 11th day of November, 1976 between STEVE MARKS CATTLE CO., INC., a Corporation, duly organized and existing under the laws of the State of California, hereinafter called the Mortgagor, and FREDERICK J. STRAIN and JOHN KALFSBEEK, hereinafter called the Mortgagee,

WITNESSETH, that said Mortgagor, for valuable consideration, receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey unto said Mortgagee, its successors and assigns, the Mortgagor's interest in that certain Lease between Andrew Popson and Dorothy Popson, as Lessors, and Mortgagor, as Lessee, dated November 15, 1973, covering that certain real property situated in Klamath County, State of Oregon, bounded and described as follows:

IN TOWNSHIP 33 SOUTH, RANGE 7-1/2 EAST OF THE WILLAMETTE MERIDIAN:

SE1/4SW1/4, Lots 5, 6, 7, Sec.6
SW1/4, Sec. 18

IN TOWNSHIP 33 SOUTH, RANGE 6 EAST OF THE WILLAMETTE MERIDIAN:

NE1/4SW1/4, E1/2SE1/4SW1/4, SW1/4SE1/4, Sec.1
E1/2E1/2NE1/4E1/2NE1/4SE1/4, SE1/4SE1/4, E1/2NE1/4,
E1/2E1/2NW1/4, SW1/4SE1/4NW1/4, SE1/4NW1/4SW1/4,
E1/2SW1/4SW1/4, E1/2SW1/4, SE1/4W1/2NE1/4, Sec. 12
NE1/4, N1/2NW1/4, SE1/4NW1/4, NE1/4SW1/4, SE1/4SW1/4,
Sec. 13
All of Sec. 24, EXCEPT E1/2E1/2E1/2

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 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, its successors and assigns forever.

This Mortgage is intended to secure the payment of the obligations hereinafter defined:

1. A promissory note dated November 2, 1976, made by Steve Marks and Anne S. Marks in favor of Frederick Strain in the amount of $228,871.57, and

2. A promissory note dated November 2, 1976 made by Steve Marks and Anne S. Marks in favor of John Kalfsbeek in the amount of $298,128.43.

And said Mortgagor covenants to and with the Mortgagee, its successors and assigns, that it is the lawful tenant of said premises and that the Lease is current in all respects, and will warrant and forever defend the same against all persons; that it will pay said obligations, principal and interest, according to the terms thereof; that while any part of said obligations remain unpaid, Mortgagee, in addition to all other covenants, agreements and promises herein contained, does hereby promise and agree as follows, to-wit:

(a) To pay any and all ground rents, faithfully at or before the same become due, and to do and perform and carry out each and every covenant and agreement of the Lessee faithfully at or before the same become due or delinquent, and not to permit any default in connection with any of the same, all as set forth in the certain leaseholds described herein, in which Mortgagor is the Lessee.

(b) That Mortgagor will at all times fully perform and comply with all agreements, covenants, terms and conditions imposed upon the Lessee under the ground lease identified in this Mortgage, and if Mortgagor fails to do so Mortgagee may (but shall not be obligated to) take any action Mortgagee deems necessary or desirable to prevent or to cure any default by Mortgagor in the performance of or compliance with any of the Lessee's covenants or obligations under said ground lease. Upon receipt by Mortgagee from the Lessor under such ground lease of any written notice of default by the Lessee thereunder, Mortgagee may rely thereon and take any action as aforesaid to cure such default even though the existence of such default or the nature thereof be questioned or denied by Mortgagor or by any party on behalf of Mortgagor. Mortgagor hereby expressly grants to Mortgagee, and agrees that Mortgagee shall have, the absolute and immediate right to enter in and upon the mortgaged premises or any part thereof to such extent and as often as Mortgagee, in its sole discretion, deems necessary or desirable in order to prevent or to cure any such default by Mortgagor. Mortgagee may pay and expend such sums of money as Mortgagee in its sole discretion deems necessary for any such purpose, and Mortgagor hereby agrees to pay to Mortgagee immediately and without demand, all such sums so paid and expended by Mortgagee together with interest thereon from the date of each such payment at the then effective rate of loans from Mortgagae to Mortgagor. All sums so paid and expended by Mortgagee, and the interest thereon, shall be added to and be secured by the lien of this Mortgage.

(c) That Mortgagor will not surrender the ground leasehold estate and interest described in this Mortgage, not terminate or cancel any of said ground lease, and will not, without the express written consent of Mortgagee modify, change, supplement, alter or amend said ground lease either orally or in writing, and as further security for the repayment of the indebtedness secured hereby and for the performance of the covenants herein and in said ground lease contained, Mortgagor hereby assigns to Mortgagee all of the Mortgagor's rights, privileges and prerogatives as Lessee under said lease to terminate, cancel, modify, change, supplement, alter or amend said ground lease, and any such termination, cancellation, modification, change, supplement, alteration or amendment of any of said ground lease without the prior written consent thereto by Mortgagee shall be void and of no force and effect. As further security to Mortgagee, Mortgagor hereby deposits with Mortgagee the Lessee's original of said ground lease and all amendments thereto, to be retained by Mortgagee until all indebtedness secured hereby is fully paid. So long as there is no breach of or default under any of the covenants or agreements herein contained to be performed by Mortgagor, or in the performance by Mortgagor of any of the terms, covenants and conditions in said ground lease contained, Mortgagee shall have no right to terminate, cancel, modify, change, supplement, alter or amend said ground lease.

(d) That no release or forbearance of any of Mortgagor's obligations under said ground lease, pursuant to said ground lease or otherwise, shall release Mortgagor from any of Mortgagor's obligations under this Mortgage, including any obligations with respect to payment of rent as provided for in said ground lease and the performance of all of the terms, provisions, covenants, conditions and agreements contained in all of the said ground lease, to be kept, performed and complied with by the Lessee therein.

(e) That unless Mortgagee shall otherwise expressly consent in writing, the fee title to the property demised by said ground lease and the leasehold estate shall not merge but shall always remain separate and distinct, notwithstanding the union of said estate either in the Lessor or in the Lessee, or in a third party by purchase or otherwise.

The foregoing covenants apply to the leasehold interests encumbered herein.

Now, therefore, if said Mortgagor shall keep and perform the covenants herein contained and shall pay said obligations according to their 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 obligations; it being agreed that upon a failure to perform any 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 obligations 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 its 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 obligations without waiver, however, of 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 claim being instituted to foreclose this Mortgage, the Mortgagor agrees to pay all reasonable costs incurred by the Mortgagee for title reports and title search, all statutory costs and disbursements and such further sum as the trial court may adjudge reasonable as plaintiff's attorney's fees in such suit or action and if an appeal is taken from any judgment or decree entered therein Mortgagor further promises to pay such sum as the appellate court shall adjudge reasonable as plaintiff's attorney's fees on such appeal, 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 successors and 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 WITNESS WHEREOF, STEVE MARKS CATTLE CO., INC., pursuant to a resolution of its Board of Directors, duly and legally adopted, has caused these presents to be signed by its President and Secretary, and its corporate seal to be hereunto affixed this 11th day of November, 1976.

STEVE MARKS CATTLE CO., INC.

By Steve Marks, its President

By Steve Marks, its Secretary

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN FRANCISCO)

On this 11th day of November, 1976, personally appeared Steve Marks, and Steve Marks, who, being duly sworn, each for himself and not one for the other, did say that the former is the president and that the latter is the secretary of Steve Marks Cattle Co., Inc., a corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its board of directors; and each of them acknowledged said instrument to be its voluntary act and deed.

Sybil L. Boardman
Notary Public for California

OFFICIAL SEAL
SYBIL L. BOARDMAN
NOTARY PUBLIC CALIFORNIA
SAN FRANCISCO COUNTY
My Commission Expires Nov. 19, 1978

STATE OF OREGON; COUNTY OF KLAMATH; ss.

I hereby certify that the within instrument was received and filed for record on the 20th day of DECEMBER A.D., 19 76 at 10:55 o'clock A M., and duly recorded in Vol. M 76 of MORTGAGES on Page 20261.

WM. D. MILNE, County Clerk

FEE $ 12.00

By [signature] Deputy