

25528

MORTGAGE

February 15, 1977

JELD-WEN, INC., an Oregon corporation, hereinafter called Mortgagor, hereby mortgages to LOYAL H. LOVENESS and MILDRED H. LOVENESS, or the survivor of them, their heirs, Executors, administrators and assigns, that certain real property situation in Klamath County, Oregon, described on Exhibit A attached hereto and made a part hereof. Together with all appurtenances, tenements, hereditaments, rents, issues, profits, water rights, timber, easements or privileges now or hereafter belonging to, derived from or in anywise appertaining to the above described premises.

This mortgage is intended to secure the payment of a promissory note of even date in the principal amount of \$950,000, together with interest at 7% per annum, a substantial copy of which is attached to this mortgage as Exhibit B and by this reference made part hereof. The final payment of principal and interest thereon, if not sooner paid, is due and payable on February 15, 1988.

COVENANT OF MORTGAGOR

1. Mortgagor covenants to and with the Mortgagee that:

1.1. Mortgagor is lawfully seized of said premises in fee simple and has a valid, unencumbered title thereto.

1.2. Mortgagor is a corporation, duly organized and validly existing and in good standing under the laws of the State of Oregon; has all requisite power and authority to consummate the transaction contemplated by this Mortgage and the promissory note secured hereby and has by proper corporate proceedings duly authorized the execution and delivery of this Mortgage and said note by the officers executing the same and the consummation of all transactions contemplated herein.

1.3. This Mortgage and the promissory note secured thereby is a legal, valid and binding obligation of the Mortgagor and is enforceable in accordance with its terms.

PROMISES OF MORTGAGOR

2. Mortgagor promises that:

2.1. Mortgagor will pay said note according to the terms thereof;

2.2. Mortgagor will pay all taxes, assessments and other charges which may be levied or assessed against said property when due.

2.3. Mortgagor will promptly discharge any liens against said property which are superior to the lien of this Mortgage; Mortgagor shall pay according to the terms thereof, any prior mortgage or other lien now or hereafter existing against said property. In the event that Mortgagor shall

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fail to pay any sum due upon any such prior lien promptly when due, Mortgagee may pay the same and Mortgagor shall reimburse Mortgagee the amount thereof upon demand, and Mortgagee may add the amount thereof to the debt secured by this Mortgage and the same shall bear interest at the rate specified in said note, without waiver, however, of any right arising to the Mortgagee for Mortgagor's breach hereof.

EMINENT
DOMAIN

3. In the event that all or any portion of said property shall be taken by eminent domain, the Mortgagee shall have the right to require that all or any portion of the moneys payable as compensation of such taking, in excess of the amount required to pay reasonable costs and attorney's fees incurred by the Mortgagor in such proceedings, shall be paid to the Mortgagee and applied by it first to any costs and expenses necessarily paid or incurred by the Mortgagee in such proceedings, and the balance shall be applied to the note secured hereby against the payments last becoming due thereon.

APPOINTMENT
OF RECEIVER

4. In the event a suit is instituted to foreclose this Mortgage, Mortgagor consents to the appointment by the court of a receiver to collect the rents, royalties and other payments due with respect to said property, without notice to the Mortgagor, upon the giving of such receiver's bond and upon such terms and conditions as may be fixed by the court.

WAIVER

5. The Mortgagor agrees that failure of the Mortgagee at any time to require performance by the Mortgagor of any provision of this mortgage or said note, shall in no way affect Mortgagee's right hereunder to enforce the same, nor shall any waiver by the Mortgagee of any breach of any provision hereof be held to be a waiver of any succeeding breach of any such provision, or as a waiver of the provision itself.

6. If the Mortgagor shall keep and perform the covenants herein contained and shall pay said note according to its terms, this conveyance shall be void; otherwise, it shall remain in full force as a mortgage to secure the performance of all of the covenants herein and the payment of said note. Time is of the essence hereof, and if Mortgagor fails to perform any covenant herein, or to pay said note according to its terms, Mortgagee shall have the option to declare the whole amount unpaid on the note immediately due and payable, and this mortgage may be foreclosed at any time thereafter. In the event of any suit or action being instituted to foreclose this mortgage, Mortgagor agrees to pay all reasonable costs incurred by Mortgagee for title search and reports and such further sum as the trial court may adjudge reasonable as Mortgagee's attorney's fees in said suit or action, and any appellate court on appeal of such suit or action, all of said sums to be secured by the lien of this mortgage.

6A. Notwithstanding the provisions of Paragraph 6 above, in the event of default by mortgagor in the performance of any of the terms and conditions herein contained, including the failure to pay any installment of principal or interest when due, mortgagor shall not be deemed to be in default hereunder until after 30 days from the mailing of written notice by mortgagee to mortgagor demanding performance.

SUCCESSORS
ASSIGNS

7. All of the covenants and agreements herein shall apply to and bind the successors and assigns of the Mortgagor and Mortgagee, respectively.

USE OF
TERMS

8. Wherever the context so requires, the masculine includes the feminine and/or neuter, and the singular includes the plural.

IN WITNESS WHEREOF, Mortgagor has caused these presents to be duly executed by authority of its Board of Directors, all on the day and year first above written.

JELD-WEN, INC.

By: L. V. Wetter
Vice President

By: W. B. Early
Assistant Secretary

STATE OF OREGON)
) ss.
COUNTY OF KLAMATH)

Feb 15, 1977.

PERSONALLY APPEARED L. V. WETTER
and W. B. EARLY who, being duly sworn, each for himself and not one for the other, did say that the former is the ^{vice} president and that the latter is the ^{assistant} secretary of JELD-WEN, 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.

Before me:

Herman F. Emvick
Notary Public for Oregon
My Commission Expires: 12-21-78

Return to Mountain Title Co.
407 Main St.
Klamath Falls, Ore.

to
the
said
the

EXHIBIT A

The following described property is situated in Township 40 South, Range 13 East of the Willamette Meridian, Klamath County, Oregon.

Section 17: $S\frac{1}{2}S\frac{1}{2}$

Section 18: $S\frac{1}{2}$

Section 19: $N\frac{1}{2}NE\frac{1}{4}$, $NE\frac{1}{4}NW\frac{1}{4}$, $SW\frac{1}{4}NE\frac{1}{4}$, $SE\frac{1}{4}$, $SE\frac{1}{4}SW\frac{1}{4}$

Section 20: $N\frac{1}{2}N\frac{1}{2}$, $S\frac{1}{2}NE\frac{1}{4}$, $SE\frac{1}{4}NW\frac{1}{4}$, $SE\frac{1}{4}$, $SE\frac{1}{4}SW\frac{1}{4}$, $W\frac{1}{2}SW\frac{1}{4}$

Section 21: $W\frac{1}{2}$, $NW\frac{1}{4}NE\frac{1}{4}$, $S\frac{1}{2}NE\frac{1}{4}$, $NW\frac{1}{4}SE\frac{1}{4}$, $S\frac{1}{2}SE\frac{1}{4}$

Section 22: $S\frac{1}{2}NW\frac{1}{4}$, $SW\frac{1}{4}$, $SE\frac{1}{4}$

Section 26: $S\frac{1}{2}SW\frac{1}{4}$

Section 27: All

Section 28: All

Section 29: All

Section 30: $N\frac{1}{2}NE\frac{1}{4}$, $NE\frac{1}{4}NW\frac{1}{4}$, $SW\frac{1}{4}NE\frac{1}{4}$, $E\frac{1}{2}SE\frac{1}{4}$, $NW\frac{1}{4}SE\frac{1}{4}$, $NE\frac{1}{4}NE\frac{1}{4}NE\frac{1}{4}SW\frac{1}{4}$

Section 32: $N\frac{1}{2}N\frac{1}{2}$, $SE\frac{1}{4}NW\frac{1}{4}$, $S\frac{1}{2}NE\frac{1}{4}$, $NE\frac{1}{4}SE\frac{1}{4}$

Section 33: $N\frac{1}{2}$, $SE\frac{1}{4}$, $N\frac{1}{2}SW\frac{1}{4}$, and beginning at a point on the NW corner of $SE\frac{1}{4}SW\frac{1}{4}$, thence Easterly along the North boundary of $SE\frac{1}{4}SW\frac{1}{4}$ to the NE corner of $SE\frac{1}{4}SW\frac{1}{4}$; thence Southerly to the SE corner of $SE\frac{1}{4}SW\frac{1}{4}$; thence diagonally Northwesterly to the Point of Beginning,

Section 34: All

Section 35: $W\frac{1}{2}$, $W\frac{1}{2}SE\frac{1}{4}$, $SE\frac{1}{4}NE\frac{1}{4}$

TOGETHER WITH: A perpetual easement for the constructing, maintaining, replacing, repairing and using for road purposes the following described land situated in Klamath County, Oregon:

Beginning at a point on the West line of $NE\frac{1}{4}SE\frac{1}{4}$ of Section 35, Township 40 South, Range 13 East of the Willamette Meridian which is 84.828 feet South of the Northwest corner of said $NE\frac{1}{4}SE\frac{1}{4}$; thence Northerly along said West line to the Northwest corner of said $NE\frac{1}{4}SE\frac{1}{4}$; thence 84.828 feet Easterly along the North line of said $NE\frac{1}{4}SE\frac{1}{4}$ to a point; thence diagonally Southwesterly 120 feet, more or less, to the point of beginning;

together with the right to do all things reasonably necessary in the building, constructing, maintaining, replacing and using of said road. This easement shall be perpetual, and shall run with the land affected thereby.

SUBJECT TO: Easements, rights of way of record and those apparent on the land.

SUBJECT TO: Right of way for roadway as conveyed to United States of America by deed recorded December 20, 1963, in Volume 350, Page 31, Deed Records of Klamath County, Oregon.

PROMISSORY NOTE

\$950,000

February 15th, 1977

FOR VALUE RECEIVED, JELD-WEN, INC., an Oregon corporation, (hereafter "JELD-WEN"), promises to pay to the order of LOYAL H. LOVENESS and MILDRED H. LOVENESS, at Mountain Title Co., 407 Main Street, Klamath Falls, Oregon, the sum of \$950,000, with interest thereon at the rate of 7 percent per annum from date until paid, in annual installments as hereinafter set forth, together with interest at the rate of 7 percent per annum from the date hereof until paid, such interest to be paid annually on February 15 of each year. The principal sum shall be payable in annual installments as follows: \$65,000 due February 15, 1978; three installments of \$95,000 commencing February 15, 1979 and continuing until February 15, 1981; and six successive installments of \$100,000 commencing February 15, 1982 until February 15, 1988, at which time any unpaid balance of principal hereof and all interest accrued hereon shall be due and payable. Prepayment of any installment of principal or interest shall not be made without the consent of the holder. Upon default in the payment of any such installment or of interest when due, the whole of the principal sum then remaining unpaid and all interest accrued thereon, shall, at the option of the holder, become immediately due and payable.

This obligation is secured by a real estate mortgage of even date herewith, and is subject to all of the terms and conditions of such mortgage.

In case suit or action is instituted to collect this note, JELD-WEN promises to pay such additional sum as the trial court may adjudge reasonable as attorney's fees in said suit or action, and any appellate court upon appeal of such suit or action. If this note is placed in the hands of an attorney for collection, JELD-WEN agrees to pay the reasonable fee and expenses of such attorney even though no suit or action is instituted or no sale of the property has been directed under the terms of the real estate mortgage securing this obligation. Such fees and costs may, at the option of the holder, be added to the principal balance of this note.

Anything to the contrary herein notwithstanding, no part of this note may be prepaid without the prior consent of the holder hereof. All persons liable either now or hereafter for the payment of this note, severally waive presentment, demand for payment and notice of nonpayment thereof. Failure to exercise any option to declare a default or accelerate the balance due hereon shall not constitute a waiver of the right to exercise the same in the event of any subsequent default. Modification of the terms of payment of this note made at the request of any person liable thereon shall in no way impair their liability of any other person now or hereafter liable for the payment hereof.

Corporate Seal:

JELD-WEN, INC.

Attest:

By L. V. WETTER
Vice-PresidentAsst. Secretary s/ W. B. EARLY

Exhibit B

STATE OF OREGON; COUNTY OF KLAMATH; ss.

I hereby certify that the within instrument was received and filed for record on the 15th day of FEBRUARY, A.D., 19 77 at 4:15 o'clock P.M., and duly recorded in Vol. M 77 of MORTGAGES on Page 2776.

FEE \$ 15.00

WM. D. MILNE, County Clerk.

By Hezel Dragic Deputy