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FARM MORTGAGE *m*  
Vol. 77 Page 7814

This Indenture, made this 5th day of May, 19 77, between  
KIRSCH BROS., a General Partnership

hereinafter  
called "Mortgagor", and FIRST NATIONAL BANK OF OREGON, a national banking association, 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:

TOWNSHIP 39 S., R. 11½ E.W.M., Klamath County, Oregon:

## PARCEL 1:

Section 20: That portion of Government Lots 5, 6, 7 and 8 lying Southerly of the new channel of Lost River taken by the United States of America in Federal Court Civil Case No. 4309, the description of which is set forth in Klamath County Deed Book 232, Page 156. SAVING AND EXCEPTING the following described tract of land conveyed to Klamath Basin Improvement District: A portion of Lot 5, Section 20, Township 39 S., R. 11½ E.W.M., 80 feet wide extending between the S.E. line of Lost River and the N.W. line of Klamath Irrigation District "F" Canal, and lying 40 feet on each side of the following described line: Beginning at a point on the Northwestern right-of-way line of the Klamath Irrigation District "F" Canal, opposite centerline Station 220+09.0 from whence the S.W. corner of Section 20, Township 39 S., R. 11½ E.W.M., bears the following courses: S. 32°14' E. 44.0 feet; thence W. 1022.3 feet; thence from said point of beginning N. 32°14' W. 555 feet, more or less, to the Southerly shore line of Lost River.

Section 21: That portion of Government Lot 6 and the S½SW¼ lying Southerly of the new channel of Lost River taken by the United States of America in Federal Court Civil Case No. 4309, the description of which is set forth in Klamath County Deed Book 232, Page 156.

Section 28: Government Lot 4 and the N½NW¼.

Section 29: NE¼; E½NW¼; that portion of the NW¼NW¼ lying E. of the U.S.R.S. "F" Canal; that portion of the SW¼NW¼ and the NE¼SE¼ lying N.E. of the County Road.

## PARCEL 2:

Section 20: Those parts of Government Lots 7 and 8 lying N. of the new channel of Lost River taken by the United States of America in Federal Court Civil Case No. 4309, the description of which channel is set forth in Klamath County Deed Book 232 beginning at Page 156.

Section 21: Government Lots 7, 8 and 9 and those parts of Government Lot 6 and the S½SW¼ lying Northerly of the new channel of Lost River taken by the United States of America in Federal Court Civil Case No. 4309, the description of which channel is set forth in Klamath County Deed Book 232 beginning at Page 156.

together with the tenements, hereditaments and appurtenances including, but not exclusively, all ways, waters and water rights, now or hereafter thereunto belonging or in anywise appertaining; also all such apparatus, equipment, and fixtures now or hereafter situate on said premises or situate elsewhere, but used in the operation of said premises as are ever furnished by landlords in letting properties 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, cultivating or irrigating and linoleum and other floor coverings attached to floors; 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.

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of MORTGAGES on Page 7814.

FEE \$ 9.00

WM. D. MILNE, County Clerk

By *Hazel Dragic*

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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 \$144,957.00 and interest thereon in accordance with the tenor of a certain promissory note executed by

KIRSCH BROS., A General Partnership

dated May 5, 1977, payable to the order of the Mortgagee in installments not less than \$29,000.00, each, together with interest, on the 15th day of each March commencing March 15, 1978, until March 15, 1982, 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, as prescribed by said note, and all taxes, liens and utility charges upon said premises or for services furnished thereto.

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 he will use the said land only for farming, that he will maintain and cultivate the same in a good and husbandlike manner, using approved methods of preventing soil erosion thereon and of preserving the fertility of the cultivated portions thereof; that he will keep the orchards on said land properly irrigated, cultivated, sprayed, pruned and cared for; that he will not remove or demolish or permit the removal or demolition of any building or buildings or fences or other improvements now or hereafter existing on said premises; that he will not cut or remove or permit the cutting or removal of timber from said premises, except for domestic use thereon; that he will not use or permit the use of said premises for any unlawful or objectionable purpose; that he will do all acts and things necessary to protect from pollution any and all surface waters, seepage waters, wells, springs and streams now or hereafter upon or used for irrigation or domestic purposes upon the said premises.

6. 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.

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7. That he will not, without the prior written consent of Mortgagee, transfer his interest in said premises or any part thereof, whether or not the transferee assumes or agrees to pay the indebtedness hereby secured. Upon any application for Mortgagee's consent to such a transfer, Mortgagee may require from the transferee such information as would normally be required if the transferee were a new loan applicant. Mortgagee shall not unreasonably withhold its consent. As a condition of its consent to any transfer, Mortgagee may, in its discretion, impose a reserve charge and

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7. That he will not, without the prior written consent of Mortgagee, transfer his interest in said premises or any part thereof, whether or not the transferee assumes or agrees to pay the indebtedness hereby secured. Upon any application for Mortgagee's consent to such a transfer, Mortgagee may require from the transferee such information as would normally be required if the transferee were a new loan applicant. Mortgagee shall not unreasonably withhold its consent. As a condition of its consent to any transfer, Mortgagee may, in its discretion, impose a service charge not exceeding one percent of the original amount of the indebtedness hereby secured and may increase the interest rate on the indebtedness hereby secured by not more than one percent per annum.

8. 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.

9. That, in the event of the institution of any suit or action to foreclose this mortgage, the Mortgagor will pay such sum as the trial court and any appellate 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.

10. 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, once or often, extend the time of payment or grant renewals of indebtedness hereby secured for any term, 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... have hereunto set their hand... and seals... the day and year first hereinabove written.

KIRSCH BROS.  
By John G. Kirsch (SEAL)  
By Richard B. Kirsch (SEAL)  
By Suzanne Kirsch (SEAL)  
By Shiara L. Kirsch (SEAL)

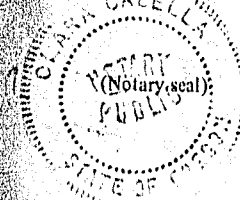
STATE OF OREGON

County of Klamath ss.

May 5, A.D. 19 77

Personally appeared the above-named John G. Kirsch, Richard B. Kirsch, Suzanne Kirsch  
and Shiara L. Kirsch

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



Clara O'Connell  
Notary Public for Oregon.

My Commission Expires: April 8, 1980

STATE OF OREGON; COUNTY OF KLAMATH; ss.

I hereby certify that the within instrument was received and filed for record on the 6th day of May A.D., 19 77 at 10:31 o'clock AM., and duly recorded in Vol M77, of MORTGAGES on Page 7814.

FEE \$ 9.00

WM. D. MILNE, County Clerk

By Hazel Drayce Deputy

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