

34013


 REAL PROPERTY MORTGAGE — OREGON  
 UNITED STATES NATIONAL BANK OF OREGON
Vol. 77 Page 1488Mortgagor: Sharon R. Ellis  
(Buyer)Date Aug. 1, 1977Mortgagee: U. S. National Bank of Oregon, Town & Country Br.  
(Seller, Contractor, Lender) Amount: \$ 4,141.75 (Gross)As security for a note from the above named Mortgagor to the above named Mortgagee, executed contemporaneously herewith in the amount set forth above, the Mortgagor hereby mortgages to the Mortgagee the following described real property in Klamath County, Oregon:

Lot 5, Block 1 of TRACT 1111, a duly recorded plat, also being in the NE 1/4 NE 1/4 of section 23 and the NW 1/4 NW 1/4 of section 24, all in T39S, R9EWM, Klamath County, Oregon, less the following described portions:

A tract of land situated in Lot 5, Block 1 of TRACT 1111, a duly recorded plat, also being in the NE 1/4 NE 1/4 of section 23 and the NW 1/4 NW 1/4 of section 24, all in T39S, R9EWM, Klamath County, Oregon, being more particularly described as follows:

Beginning at a 5/8-inch iron pin on the southerly right of way line of Airway Drive, said iron pin being 500°17'03" E a distance of 30.00 feet from the corner common to said sections 23 and 24; thence N89°39'09" W along said right of way line 141.67 ft; thence 500°20'51" W 284.09 ft; thence N87°57'36" E 132.72 ft; thence 500°20'51" W 345.00 ft; thence East 191.96 ft. to the westerly right of way line of the 1-C-1 U.S.B.R. drain; thence N17°25'40" E

along said westerly right of way line 659.80 feet to the southerly right of way line of said Airway Drive; thence S89°05'04" W 376.77 feet to the point of beginning, containing 5.00 Acres, with the bearing based on said TRACT 1111.

Sharon R. Ellis

\_\_\_\_\_  
Witness

STATE OF OREGON

County of Klamath } ss

On this 1st day of August, 19 77, before me personally appeared Catherine V. Clowers witness, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as a witness thereto. He, being duly sworn by me, stated that he (she) resides in Klamath County, Oregon; that he was present and saw Sharon R. Ellis and Sharon R. Ellis, personally known to him to be the signers of the foregoing instrument as parties thereto; sign and deliver the same and he heard them acknowledge that they executed the same, and that he, the witness, thereupon signed his name as a witness thereto at the request of said Sharon R. Ellis and \_\_\_\_\_.

Ret: Mail 138  
00 13469  
 70-1874-9/7A  
1/24

Mary A. Difon  
 Notary Public for Oregon  
 My Commission Expires 12-3-79

STATE OF OREGON; COUNTY OF KLAMATH; ss.

I hereby certify that the within instrument was received and filed for record on the 12th day of August A.D., 1977 at 12:01 o'clock P.M., and duly recorded in Vol. M77 of MORTGAGES on Page 14692.

FEE \$ 3.00

WM. D. MILNE, County Clerk

By Hazel Dray Deputy

MORTGAGE

Vol. 77 Page

MORTGAGE made this 4th day of August, 1977, by DAVID S. GAUNTLETT and MICHELE GAUNTLETT, husband and wife, as Mortgagor, and DRAIN CABLE & APPLIANCE, INC., as Mortgagee.

1. CONVEYANCE. In consideration of the sum of Four Thousand Three Hundred Dollars (\$4,300.00) owed to Mortgagee, Mortgagor conveys to Mortgagee, its successors and assigns, forever, the premises described in Paragraph 2 together with any tenements, hereditaments and appurtenances in any way belonging or appertaining to the premises. This mortgage secures payment and performance of the covenants in a promissory note of even date herewith. A copy of the note is attached hereto as Exhibit A and incorporated herein by this reference.

2. DESCRIPTION OF PREMISES CONVEYED. The property subject to this mortgage (herein "premises") is more particularly described as follows:

Lot 4, Block 6 of Second Addition to Moyina,  
Klamath Falls, Klamath County, Oregon. - - -

SUBJECT TO: Regulations, including levies, liens, assessments, rights of way and easements of the South Suburban Sanitary District.

SUBJECT TO: An easement created by instrument, including the terms and provisions thereof, dated March 11, 1940 and recorded April 5, 1940, in Book 128, Page 267, in favor of the Cal-Ore Power Co., a California corporation, for electric transmission lines.

SUBJECT TO: An easement created thereof, dated June 1, 1956, and recorded June 8, 1956, in Book 284, Page 22, Records of Klamath County, Oregon, in favor of the Cal-Ore Power Co., a California corporation.

SUBJECT TO: Restrictions as shown on the recorded Plat of Second Addition to Moyina, Klamath Falls, Klamath County, Oregon, but omitting restrictions, if any, based on race, color, religion or national origin.

SUBJECT TO: Mortgage dated May 1976 in favor of State of Oregon, Director of Veterans' Affairs, given to secure the sum of \$35,000.00. - - -

Upon recording, return to:  
DRAIN CABLE & APPLIANCE, INC.  
DRAIN, OREGON 97435



3. PREPAYMENTS. Mortgagor may pay any portion or the entire balance of the indebtedness secured by this mortgage, together with interest, at any time, and interest shall be computed only on the unpaid balance to the date of the payment. Payments shall be applied first to accrued interest, then to principal.

4. MORTGAGOR'S COVENANTS. Mortgagor covenants as follows:

a. SEISIN. Mortgagor is lawfully seized of the mortgaged premises, and will forever warrant and defend the premises against the lawful claims and demands of all persons whomsoever.

b. PAYMENT. Mortgagor will cause the indebtedness and interest secured by this mortgage to be paid promptly when due in accordance with this mortgage and the promissory note, Exhibit A hereto.

c. PAYMENT OF TAXES, ASSESSMENTS, LIENS AND OTHER CHARGES. Mortgagor will pay promptly before delinquent, all taxes, municipal assessments, liens and other charges whatsoever which may be levied or assessed upon the premises. Mortgagor will promptly pay and satisfy any mechanics' liens or other liens and encumbrances that might by operation of law or otherwise become a lien on the mortgaged premises superior to the lien of this mortgage. Mortgagor will show to Mortgagee on demand, all receipts evidencing payment of taxes, assessments, liens or other charges required by this paragraph to be paid by Mortgagor.

(1) CONTEST OF TAXES. Mortgagor shall have the right to contest the amount or legality of any tax imposed upon the premises by any governmental agency, municipality or any other organization, to make application for the reduction thereof or of any assessment upon which the same may be based. Mortgagee agrees, at Mortgagor's request, to execute or join in the execution of all or any documents or instruments necessary in connection with that contest or application so long as Mortgagee incurs no personal liability therefor or costs in connection therewith. If Mortgagor shall contest the amount or legality of any such tax or make application for the reduction of any assessment upon which the same may be based, the time within which Mortgagor shall be required to pay the same, shall, under the terms of this mortgage, be extended until that application or contest shall have been finally determined. Mortgagor agrees to prosecute any such contest or application with due diligence and to, within thirty (30) days after final determination thereof, pay the full amount of that tax as so determined, together with any interest, penalties, costs or charges which may be payable in connection therewith.

(2) CONTEST OF LIENS OR CHARGES. Mortgagor may contest the amount, legality, correctness or validity of any other charge, assessment, imposition or lien with respect to the premises. Mortgagor may withhold payment of any claims in connection with a good faith dispute over Mortgagor's obligation

to pay the same or the amount thereof so long as Mortgagee's interest is not thereby jeopardized. If a lien is filed, or imposed by valid statute or ordinance as a result of nonpayment, Mortgagor, shall, within twenty (20) days after knowledge of the filing or imposition, secure the discharge thereof or deposit with Mortgagee or such other escrowee as may be agreed upon by the parties, cash or a sufficient corporate security bond in an amount sufficient to satisfy the lien, charge, assessment or imposition, plus costs, attorney fees, interest and other charges which could lawfully accrue as a result of a foreclosure or sale under the lien.

(3) BANCROFTING. Notwithstanding any other provision of this agreement, Mortgagor may pay, by installments, any lien, assessment charge or levy which may, by law, be paid in installments under the "Bancroft Bonding Act."

(4) EVIDENCE OF PAYMENT. Upon demand, Mortgagor shall show to Mortgagee, or furnish Mortgagee duplicates of receipts for any item of amount Mortgagor is required to pay under the terms of this agreement.

d. WASTE. Mortgagor will not commit or suffer any waste of the mortgaged premises.

e. INSURANCE. Mortgagor will insure the structures on the premises against the perils covered by a standard fire insurance policy with extended coverage endorsement, for at least the value of the improvements shown in the latest county tax appraisal as of the policy inception or anniversary date, in companies acceptable to Mortgagee. Loss under such policies of insurance shall be made payable first to Mortgagee, and then to Mortgagor, as their respective interests may appear. The originals of all such insurance policies shall be deposited with Mortgagee. Mortgagee agrees not to unreasonably withhold consent to Mortgagor's insurance program.

f. TRANSFER OF MORTGAGOR'S INTEREST. Mortgagor shall not voluntarily or involuntarily transfer or suffer any transfer of Mortgagor's interest in the premises without Mortgagee's prior written consent. Mortgagee agrees not to unreasonably withhold consent to a proposed transfer by Mortgagor.

5. SECOND MORTGAGE. The lien of this mortgage is subsequent and inferior to the lien of the mortgage dated May 1976 between State of Oregon, Director of Veterans' Affairs, as Mortgagee, and David S. Gauntlett and Michele Gauntlett, as Mortgagor.

6. EFFECTIVENESS OF CONVEYANCE. If Mortgagor pays the indebtedness and interest secured by this mortgage and complies with the covenants herein, the conveyance in Paragraph 1 shall be void. Otherwise, the conveyance shall remain in force as a mortgage to secure payment of the indebtedness and interest secured by, and the performance of the covenants in, this mortgage.



7. DEFAULT.

a. TIME IS OF THE ESSENCE. Time of payment and performance is of the essence of this mortgage.

b. EVENTS OF DEFAULT. The occurrence of any of the following events shall constitute a default:

(1) FAILURE TO TIMELY PAY. Failure to promptly pay any installment of principal or interest, or both, as required by the terms of the promissory note attached hereto which evidences the indebtedness secured by this mortgage.

(2) FAILURE TO TIMELY PERFORM. Failure to promptly perform all covenants contained in this mortgage.

(3) INSOLVENCY. Mortgagor's insolvency; assignment by Mortgagor of all or a substantial part of Mortgagor's assets for the benefit of creditors; appointment of a receiver for all or a substantial part of Mortgagor's property; failure by Mortgagor to obtain a dismissal of an involuntary bankruptcy petition within ten (10) days after filing; failure by Mortgagor to secure discharge of an attachment or release of levy upon Mortgagor's interest in the premises within ten (10) days after attachment or levy.

c. REMEDIES ON DEFAULT. Upon Mortgagor's default, Mortgagee shall have the following remedies, or any combination thereof, at Mortgagee's election:

(1) ACCELERATION OF UNPAID BALANCE. Upon occurrence of an event of default as defined by Paragraph 7 above, Mortgagee may elect to declare the entire unpaid balance of the indebtedness secured by this mortgage, together with the interest accrued thereon, immediately due and payable.

(2) PAYMENT OF TAXES, ASSESSMENTS, LIENS AND OTHER CHARGES AND ADDITION OF SUMS PAID TO BALANCE SECURED BY MORTGAGE. If Mortgagor fails to pay any taxes, municipal assessments, liens, whether arising by operation of law or otherwise, or other charges, promptly in accordance with Paragraph 4c, Mortgagee may elect to pay such taxes, municipal assessments, liens or other charges. Mortgagee may add the amount of such payments to the balance of the indebtedness secured by this mortgage, and interest shall accrue on that sum at the rate of EIGHT per cent ( 8 %) per annum until paid. This mortgage shall secure repayment by Mortgagor of any such sums paid by Mortgagee pursuant to this paragraph.

(3) FORECLOSURE. Whether or not Mortgagee elects to exercise Mortgagee's right under subparagraph 7c(2) above, upon the occurrence of any event of default as defined in Paragraph 7, Mortgagee may at any time thereafter foreclose this mortgage as provided by law. Mortgagee shall be

entitled, upon foreclosure, to immediate possession and control of the mortgaged premises. Mortgagee shall have full power to rent or lease the mortgaged premises during the period of foreclosure and redemption. Any rents and profits realized by Mortgagee from rental or lease of the mortgaged premises pursuant to this paragraph shall be applied first to the expenses of foreclosure, including Mortgagee's attorney fees, and then to payment of the indebtedness and interest secured by this mortgage.

(4) RECEIVER. In the event a foreclosure proceeding is commenced under subparagraph 7c(3), the court in which the proceeding is brought shall, upon motion of a party thereto, appoint a receiver to take charge of the premises and to receive the rents, issue and profits thereof and pay the expenses relating to the same pending determination of the issues before the court. The costs of the receivership shall be borne as the court may direct.

d. NOTICE OF DEFAULT. Before exercising any remedy for default herein reserved, Mortgagee shall give Mortgagor not less than thirty (30) days notice of default, except that no notice of default shall be required for Mortgagor's failure to timely pay under paragraph 7b(1). Any notice of default shall be sufficient if it states the nature of the default, demands cure thereof within thirty (30) days and declares Mortgagee's intention to exercise any and all remedies reserved hereunder including acceleration of the principal and interest balance without further notice if cure is not made within the time limited.

8. NOTICES. Any notices required hereby shall be given in writing by depositing the same in a post office or letter box, in a postpaid and sealed wrapper, certified mail, return receipt requested. All notices shall be addressed to the party at the party's last known address. The time when the notice is mailed shall be deemed the time the notice is given.

9. ATTORNEY FEES. If suit, action or other proceeding is instituted to enforce any right or obligation arising out of this mortgage, or on appeal therefrom, the prevailing party shall recover, in addition to costs, such sum as the trial or appellate court, as the case may be, deems reasonable as an attorney fee.

#### 10. INTERPRETATION.

a. GOVERNING LAW. This mortgage shall be construed in accordance with Oregon law.

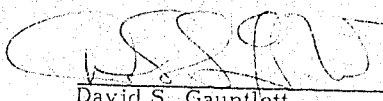
b. GENDER; NUMBER. If the context of this mortgage so requires, the masculine, feminine and neuter genders shall be deemed to include the other or others; and the singular and plural numbers shall each be deemed to include the other.

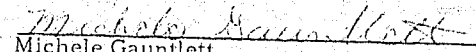


c. CAPTIONS; CROSS REFERENCES. The captions of particular paragraphs of this mortgage are inserted for convenience only, and are neither part of this mortgage nor a limitation of the scope of the particular paragraph to which each refers. Unless otherwise specifically noted, references to paragraph numbers are references to paragraphs of this mortgage.

11. SUCCESSION. This mortgage shall bind and inure to the benefit of the parties, their heirs, successors and, subject to Paragraph 4f, their assigns.

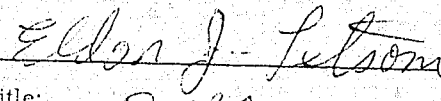
IN WITNESS WHEREOF, the parties have signed this mortgage.

  
David S. Gauntlett

  
Michele Gauntlett

MORTGAGOR

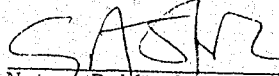
DRAIN CABLE & APPLIANCE, INC.

By   
Title: pres  
MORTGAGEE

STATE OF OREGON )  
COUNTY OF COOS ) ss.

Personally appeared the above-named David S. Gauntlett and Michele Gauntlett, husband and wife, and acknowledged the foregoing instrument to be their voluntary act and deed. Before me this 4th day of August 1977.

(SEAL)

  
Notary Public for Oregon  
My Commission Expires: 1-11-80

STATE OF OREGON )  
COUNTY OF Washington ) ss.

On this 6 day of August, 1977, before me appeared Elder J. T. Tilton, to me personally known, who, being duly sworn, did say that the said Elder J. T. Tilton is the president of Drain Cable & Appliance, Inc., the within named corporation, and that the said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and Elder J. T. Tilton acknowledged the 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.

(SEAL)

W. D. D. D.  
Notary Public for Oregon  
My Commission Expires: 12/15/79



EXHIBIT A  
PROMISSORY NOTE

\$4,300.00

DRAIN, OREGON  
August 4, 1977

WE, DAVID S. GAUNTLETT and MICHELE GAUNTLETT (herein "Makers"), jointly and severally promise to pay to the order of DRAIN CABLE & APPLIANCE, INC., the sum of FOUR THOUSAND THREE HUNDRED DOLLARS (\$4,300.00) upon the earlier of: One year from the date hereof or the sale of Makers' residential real property in Klamath Falls, Oregon. Interest at the rate of eight percent (8%) per annum shall accrue on the principal balance from and after 90 days from the date hereof.

Makers may at any time pay the entire balance of the indebtedness evidenced hereby, or advance or additional payments thereon, and interest shall be computed only on the unpaid balance on the date of payment. Payments shall be applied first to accrued interest and then to principal.

Should Makers fail to pay as promised herein, the holder of this note may declare the entire balance of the indebtedness evidenced hereby immediately due and payable. If this note is placed in an attorney's hands for collection, Makers shall pay holder's reasonable attorney's fees and costs, whether or not suit or action is filed; if suit or action is filed, or on appeal therefrom, the amount of the attorney fee shall be fixed by the trial or appellate court.

David S. Gauntlett  
David S. Gauntlett

Michele Gauntlett  
Michele Gauntlett

MAKERS

STATE OF OREGON; COUNTY OF KLAMATH; ss.

I hereby certify that the within instrument was received and filed for record on the 12th day of August A.D., 19 77 at 12:35 o'clock P. M., and duly recorded in Vol. 877 of MORTGAGES on Page 11693.

FEE \$ 24.00

WM. D. MILNE, County Clerk

By Hazel D. Dwyer Deputy

Exhibit A - 1 of 1  
Promissory Note - 1 of 1