

## MORTGAGE

Vol. 78 Page 14666

MTC 6664

Contract Number

51362

THIS MORTGAGE, Made the 24th day of JUNE, 19 78  
by GARY D. + DIANE M. HURST

Mortgagors, unto LENDER, FINANCE AMERICA CORPORATION, an Oregon Corporation, Mortgagee,

WITNESSETH: That the said Mortgagors, in consideration of the sum of NINETY FOUR HUNDRED  
SIXTY + 00/100 (\$ 9460.00 ) Dollars,

the receipt of which is acknowledged; and for the purpose of securing the repayment of the said sum with interest, and the performance of the covenants hereinafter contained, do hereby grant, convey, mortgage and warrant unto the said Mortgagee the lands, premises and property situated in the County of KLAMATH and State of OREGON described as follows, to-wit:

Portion of Lot 3 Block 1 Less the South 72' of the  
EAST 121.5' and the West 176.1' of Home Acres  
SUG.

TO HAVE AND TO HOLD the granted premises and property, together with the tenements, hereditaments, rights, privileges and appurtenances, now or hereafter belonging to or used in connection with the above described premises including all buildings and improvements thereon (or that may hereafter be erected thereon), together with the reversions and remainders, rents, issues and profits thereof, together with the following property which is and shall be deemed to be fixtures and a part of the real property: all plumbing, heating, cooking, cooling, ventilating, watering, irrigating apparatus, window shades, venetian blinds, screens and storm windows and doors, shutters and awnings, floor coverings, machinery or any other fixtures and replacements thereof now or hereafter during the term of this mortgage as permitted by law belonging to or used in connection with the above described premises all of which are a part of the security for the indebtedness herein mentioned.

In addition thereto, the following described furniture, appliances and equipment or other fixtures and any replacements thereof, which are and shall be deemed to be fixtures and a part of the realty, are included as security for the indebtedness herein mentioned, to-wit:

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And the Mortgagors hereby covenant with the said Mortgagee as follows:

FIRST: That this mortgage is given to secure the above sum, said sum to be paid in accordance with the terms of a certain Home Improvement Sales Contract dated 6-24-78, 19 78, executed by GARY D. + DIANE M. HURST to the mortgagee which said contract has a final maturity of 6-24-88, 19 78.

SECOND: The security of this mortgage shall also extend to and cover any additional sums, obligations, or advances made by the mortgagee to GARY + DIANE HURST, or any of his successors in ownership in the real estate hereby conveyed.

THIRD: The Mortgagors warrant that they hold merchantable title to the above described premises and property in fee simple free of all encumbrances other than those enumerated in the title insurance policy, if any, issued for the benefit of the Mortgagee in connection with this transaction and accepted by the Mortgagee. Subject to such exceptions, the Mortgagors warrant and will forever defend the title against the claims of all persons. In the event any action or proceeding is commenced which questions Mortgagors' title or the interest or priority of the Mortgagee under this mortgage, Mortgagors shall defend the action or proceeding at their expense.

FOURTH: This instrument shall constitute a security agreement with respect to any personal property or fixtures or both included within the description of the property.

At the request of the Mortgagee, Mortgagors shall join with the Mortgagee in executing one or more financing statements pursuant to the Uniform Commercial Code in a form satisfactory to the Mortgagee and will pay for filing the same in the proper public office or offices as well as the cost of such lien searches made by filing officers or searching agencies as may be deemed desirable by the Mortgagee.

FIFTH: During the entire life of this mortgage the building and improvements erected and to be erected upon said premises, and the personal property mortgaged herein if any, shall be kept insured by the Mortgagors against loss or damage by fire and such other hazards in such amounts, for such periods and under such form and type of policy as shall be satisfactory to the Mortgagee. All the insurance written on the mortgaged premises and property shall be made payable, in the event of loss, to the Mortgagee and the Mortgagee shall be entitled to the possession of all such insurance policies during the life of this mortgage. The cash value of all such insurance policies is hereby assigned to the Mortgagee as additional security to the obligation and in the event of foreclosure of this mortgage or other transfer of title to the mortgaged property in extinguishment of the debt secured hereby, all right, title and interest of the Mortgagors in and to any such insurance policies then in force shall pass to the Mortgagee. The Mortgagors will pay the premiums for said insurance as the same shall become due. The Mortgagee shall not be responsible for any failure to place or maintain such insurance, or for loss or damage growing out of a defect or non-payment of loss under any such policy of insurance. If the premises or property covered hereby or any part thereof shall be damaged by fire or other hazards against which insurance is held, the amounts paid by any insurance company pursuant to the contract of insurance, shall be paid to the Mortgagee and the amounts so received may be applied by the Mortgagee, at its option, either upon any sum or sums secured by the mortgage, whether or not same are due, or released by the Mortgagee, at its option, for the repairing, replacing and rebuilding of the premises and property; said repairing, replacing and rebuilding to be done and made subject to the approval of the Mortgagee and in a manner satisfactory to the Mortgagee.

Mortgagors shall promptly notify Mortgagee of any loss or damage which may occur to the mortgaged property. Mortgagee is hereby authorized, at Mortgagee's option, to make proof of loss if the same is not promptly made by the Mortgagors. Mortgagee may compromise with any insurance company and make a final settlement which shall be binding upon Mortgagors.

SIXTH: The Mortgagors will pay before delinquency, and before any penalties, interest or other charges accrue or are added thereto, any and all taxes, assessments, liens, charges for the use of water on said premises, and any other charges or assessments which may become liens thereon prior to the lien of this mortgage, and will keep said property free and clear of any and all liens for labor or material, or any lien whatsoever that may become prior to this mortgage. If any future law is passed taxing or assessing this mortgage or the Mortgagee on account of its ownership of this mortgage, then the Mortgagee may, upon the passing of such law, declare the entire debt hereby secured due and payable.

The assessor or tax collector of the county in which the mortgaged property is located is authorized to deliver to the Mortgagee a written statement of the property taxes assessed or owing at any time.

SEVENTH: Together with and in addition to the monthly payments payable under the terms of the contract secured hereby, the Mortgagors may agree to pay to the Mortgagee, until the said contract is fully paid, the following:

A sum equal to the premiums that will next become payable on policies of fire and other hazard insurance covering the mortgaged property, plus taxes and assessments next due on the mortgaged property (all as estimated by the Mortgagee, and of which the Mortgagors are notified) less all sums already paid therefor, divided by the number of months to elapse before one month prior to the date when such premiums, taxes and assessments will become delinquent, such sums to be held by Mortgagee to pay such premiums, taxes and assessments. In the event that Mortgagors agree to pay to the Mortgagee such sums, payment shall be secured by this mortgage and Mortgagors failure to make such payments shall be an event of default hereunder.

EIGHTH: The Mortgagors will use said mortgaged premises only for lawful purposes and will not commit nor suffer strip or waste upon said premises and will not do or suffer to be done any act or thing which may in any way impair the security of this mortgage. The said premises and any and all improvements thereon shall at all times be kept in a sound state of preservation and in good repair; the character and usage of said property shall not be changed, and alterations in the said premises or additions thereto shall not be made without the written consent of the Mortgagee. If the mortgaged premises are to be used for farming, Mortgagors 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; will keep the orchards on said land properly irrigated, cultivated, pruned, sprayed and cared for; 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; will not cut or remove or permit the cutting or removal of timber from said premises, except for domestic use thereon; and 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 said premises.

(CONTINUED ON REVERSE SIDE)

ORIGINAL

And the Mortgagors hereby covenant with the Mortgagee as follows:

Contract dated 6-24-78, 1988, executed by GARY D. + DIANE M. HURST to the mortgagee which said contract has a final maturity of 6-24-88, 1988.

SECOND: The security of this mortgage shall also extend to and cover any additional sums, obligations, or advances made by the mortgagee to GARY D. + DIANE M. HURST or any of his successors in ownership in the real estate hereby conveyed.

THIRD: The Mortgagors warrant that they hold merchantable title to the above described premises and property in fee simple free of all encumbrances other than those enumerated in the title insurance policy, if any, issued for the benefit of the Mortgagee in connection with this transaction and accepted by the Mortgagee. Subject to such exceptions, the Mortgagors warrant and will forever defend the title against the claims of all persons. In the event any action or proceeding is commenced which questions Mortgagors' title or the interest or priority of the Mortgagee under

FOURTH: This instrument shall constitute a security agreement with respect to any personal property or fixtures or both included within the description of the property.

At the request of the Mortgagee, Mortgagors shall join with the Mortgagee in executing one or more financing statements pursuant to the Uniform Commercial Code in a form satisfactory to the Mortgagee and will pay for filing the same in the proper public office or offices as well as the cost of such lien searches made by filing offices or searching agencies as may be deemed desirable by the Mortgagee.

FIFTH: During the entire life of this mortgage the building and improvements erected and to be erected upon said premises, and the personal property mortgaged herein if any, shall be kept insured by the Mortgagors against loss or damage by fire and such other hazards in such amounts, by such periods and under such form and type of policy as shall be satisfactory to the Mortgagee. All the insurance written on the mortgaged premises and property shall be made payable, in the event of loss, to the Mortgagee and the Mortgagee shall be entitled to the possession of all such insurance policies during the life of this mortgage. The cash value of all such insurance policies is hereby assigned to the Mortgagee as additional security to the obligation and in the event of foreclosure of this mortgage or other transfer of title to the mortgaged property in extinguishment of the debt secured hereby, all right, title and interest of the Mortgagors in and to any such insurance policies then in force shall pass to the Mortgagee. The Mortgagors will pay the premiums for said insurance as the same shall become due. The Mortgagee shall not be responsible for any failure to place or maintain such insurance, or for loss or damage growing out of a defect or non-payment of loss under any such policy of insurance. If the premises or property covered hereby or any part thereof shall be damaged by fire or other hazards against which insurance is held, the amounts paid by any insurance company pursuant to the contract of insurance shall be paid to the Mortgagee. The Mortgagee, at its option, either upon any sum or sums secured by the mortgage, whether or not same are due, or released by the Mortgagee, at its option, for the repairing, replacing and rebuilding of the premises and property; said repairing, replacing and rebuilding to be done and made subject to the approval of the Mortgagee and in a manner satisfactory to the Mortgagee.

Mortgagors shall promptly notify Mortgagee of any loss or damage which may occur to the mortgaged property. Mortgagee is hereby authorized at its option to make a claim for loss of or damage to the same if not promptly made by the Mortgagors. Mortgagee may compromise with any insurance company and make a final settlement which shall be binding upon the Mortgagors.

SIXTH: The Mortgagors will pay before due, and before any penalties, interest or other charges accrue or are added thereto, any and all taxes, assessments, liens, charges for the use of water on said premises, and any other charges or assessments which may become liens thereon prior to the lien of this mortgage, and will keep said property free and clear of any and all liens for labor or material, or any lien whatsoever that may become a lien on the mortgaged property, and will pay the same when due or assessed. This mortgage of the Mortgagee on account of its ownership of this mortgage, then to the Mortgagee, shall be a lien in favor of the Mortgagee and shall be a debt hereby secured due and payable.

The assessor or tax collector of the county in which the mortgaged property is located is authorized to deliver to the Mortgagee a written statement of the property taxes assessed or owing at any time.

SEVENTH: Together with and in addition to the monthly payments payable under the terms of the contract secured hereby, the Mortgagors may agree to pay to the Mortgagee until the said contract is fully paid, the following:

A sum equal to the premiums that will next become payable on policies of fire and other hazard insurance covering the mortgaged property, plus taxes and assessments next due on the mortgaged property (all as estimated by the Mortgagee, and of which the Mortgagors are notified) less all sums already paid therefor, divided by the number of months to elapse before one month prior to the date when such premiums, taxes and assessments will be due. If the Mortgagors are delinquent, such sums to be held by Mortgagee to pay such premiums, taxes and assessments. In the event that Mortgagors agree to pay to the Mortgagee such sums, payment shall be secured by this mortgage and Mortgagors failure to make such payments shall be an event of default hereunder.

EIGHTH: The Mortgagors will use said mortgaged premises only for lawful purposes and will not commit nor suffer or allow any person or persons to do so and will not do or suffer to be done any act or thing which may in any way impair the security of this mortgage. The said premises and any and all improvements thereon shall at all times be kept in a sound state of preservation and in good repair; the character and usage of said property shall not be changed, and alterations in the said premises or additions thereto shall not be made without the written consent of the Mortgagee. If the mortgaged premises are to be used for farming, Mortgagors 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; will keep the orchards on said land properly irrigated, cultivated, pruned, sprayed and cared for; 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; will not cut or remove or permit the cutting or removal of timber from said premises except for domestic use thereon; and 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 said premises.

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Mortgagee such sums payment shall be secured by this mortgage and Mortgagors failure to make such payments shall be an event of default hereunder.

EIGHTH: The Mortgagors will use said mortgaged premises or ly for lawful purposes and will not commit nor suffer strip or waste upon said premises and will not do or suffer to be done any act or thing which may in any way impair the security of this mortgage. The said premises and any and all improvements thereon shall at all times be kept in a sound state of preservation and in good repair; the character and usage of said property shall not be changed, and alterations in the said premises or additions theret shall not be made without the written consent of the Mortgagee. If the mortgaged premises are to be used for farming, Mortgagors 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, will keep the orchards on said land properly irrigated, cultivated, pruned, sprayed and cared for, 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; will not cut or remove or permit the cutting or removal of timber from said premises, except for domestic use thereon; and 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 said premises.

(CONTINUED ON REVERSE SIDE)

**ORIGINAL**

NINTH. Any structure being constructed on the mortgaged premises, or to be constructed, shall be completed within \_\_\_\_\_ months from the date hereof. Mortgagors will perform all of the terms and conditions of Mortgages to be performed pursuant to any commitment agreement or agreement executed in connection with this mortgage. Failure of performance of any of such terms or conditions shall also be a default under this mortgage. In the event of any such default, the Mortgage may, at its option, and in addition to any other remedies provided by law or contract, declare the entire debt hereby secured to be immediately due and payable.

[illegible]

ELEVENTH. All rental, issues, income and profits derived from the mortgaged premises and property are hereby assigned to the Mortgagee as additional security. In the event of default of the Mortgagee in any respect under this mortgage, the Mortgagee shall have the right to collect and retain the rents, issues, income and profits derived from the mortgaged premises and property and to pay the same to the lender. The Mortgagee, at its option, in payment of operating costs and expenses in connection with the operation and maintenance of the mortgaged premises, may deduct from the rents, issues, income and profits derived from the mortgaged premises and property all such costs and expenses and may pay the same to the lender. In payment of operating costs and charges for collection and management, it may pay an independent person or company any amount due or to be due to or for such person or company. The Mortgagee shall have the right at its option to enter into and upon the mortgaged premises and take possession thereof in the event of default and to collect said rents, issues, income and profits therefrom and require any guarantors or occupants of said premises to make payments to the Mortgagee of rental or other charges arising out of the use and occupancy of said premises.

TWELFTH: If all or any part of the mortgaged premises and property is condemned, the Mortgagee may, at its election, require that all or any portion of the net proceeds of the award be applied on the indebtedness secured hereby. The net proceeds of the award means the award after payment of all reasonable expenses and attorneys' fees necessarily paid or incurred by Mortgagees and the Mortgagee in connection with the condemnation. If any proceedings in condemnation are filed, Mortgagee shall promptly take such steps as may be necessary to defend the action and obtain the award.

THIRTEENTH: In the event it becomes necessary in the judgment of the Mortgagee to foreclose on the Mortgage, without notice and without the value of the mortgaged premises or to the adequacy of the security for the debt, Lender shall have the right to apply to any Court having jurisdiction for the appointment of a Receiver to take possession of said premises and property, any personal property owned by the Mortgagee and remaining in or about said premises, and to have appointed a Receiver of Mortgage and second said mortgaged premises and property. In the event the Mortgagee or any Receiver enters into possession of said premises and property, any personal property owned by the Mortgagee and remaining in or about said premises may be used without charge by the Mortgagee or Receiver in the operation of the premises, or may be removed by the Mortgagee or Receiver, and in no event shall any portion thereof.

FOURTEENTH: In the event suit or action is instituted to enforce any of the terms of the mortgage, the Mortgagee shall be entitled to recover from the Mortgagee such sum as the court may judge reasonable as attorney's fees at the time of the trial. All reasonable expenses incurred by the Mortgagee that are necessary at any time in the Mortgagee's opinion for the protection of its interest in the enforcement of the terms, including without limitation, the cost of searching records, obtaining the reports, surveys, reports, testimony, opinions or the like, whether or not the Mortgagee is a party to the suit or action, shall become a part of the indebtedness secured hereby, payable in demand and shall bear interest at the rate of ten percent per annum from the date of expenditure until repaid.

FIFTEENTH. Should the Mortgagors be or become in default in any of the covenants or agreements contained herein, then the Mortgagee (whether electing to declare the whole indebtedness hereby secured due and collectible or not) may perform the same and all or any part thereof, without demand, and together with interest and costs accruing thereon, shall be secured by this mortgage, and the right and duties of the parties covenanted to in this paragraph shall apply equally to any and all part payments or advances made by the Mortgagee for any of the purposes herein provided.

SIXTEENTH: Mongols will not without prior consent of Hainan and other provinces whether or not the transverse assumes of Mongolia; the individual

the underlying indebtedness.

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in case default be made in any payment, or any part or installment thereof, or in case the Mortgagors shall fail or refuse or default in the payment of any sum, which may become due under the terms hereof when and as the same become due, or shall default in the fulfillment of any of the terms hereof or the performance of any of the provisions herein required by them and when the same are required to be performed hereby, or shall permit or suffer any default in any of the terms hereof, time being the essence hereof, then the whole of the principal sum secured hereby and the interest thereon and any and all other sums due the Mortgagee under the terms hereof shall, at the option of the Mortgagee, become immediately due and payable without notice, and this mortgage may be foreclosed, but the failure or delay of the Mortgagee to exercise such option in any one or more instances shall not bar or prevent the Mortgagee from the right to exercise such option.

EIGHTEENTH: The mailing address(es) of the Mortgagor (Debtor) is 475 N. Ashper Klamath

and the address of the Mortgagee (Secured Party) from which security information is obtainable is: *700 S. 1st St. Phoenix, Ariz.*

Executed the day and year first above written.

Return to

9014 W. Beaverton Hillsdale Hwy  
Portland OR 97225  
Attn: Busk

STATE OF OREGON

County of \_\_\_\_\_

THIS CERTIFIES That on this 24th day of June A.D. 19 78 before me, the

Signed, a notary public in and for said County and State, personally appeared the within named

Ernest P. Hurst and Diane M. Hurst who are known

to me to be the identical individual S described in and who executed the within instrument, and acknowledged to me that they  
executed the same as their free act and deed, for the uses and purposes therein expressed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and

affixed my official seal the day and year last above written

Valene R. Barker  
Notary Public for Oregon

My commission expires 8-8-77

STATE OF OREGON; COUNTY OF KLAMATH; ss.

I hereby certify that the within instrument was received and filed for record on the 10th day of July A.D., 1978 at 10:31 o'clock A M., and duly recorded in Vol. 478 of Mortgages on Page 14666.

FEE \$12.00

WM. D. MILNE, County Clerk

By Deborah A. DeLoach Date 11/1/79