

THIS MORTGAGE, made this 21st day of September 1979 between Frederick D. Ehlers and Helen Ann Ehlers, also known as Helen A. Ehlers, husband and wife, and Swan Lake Moulding Company, an Oregon corporation, (MORTGAGOR), whose address is P. O. Box 428, Klamath Falls, Oregon 97601 and THE TRAVELERS INSURANCE COMPANY, a Connecticut corporation, (MORTGAGEE).

Mortgagor mortgages to Mortgagee the real property in the County of Klamath State of Oregon described as follows: See Exhibit "A" for real property description attached hereto, which by reference is made a part hereof.

Its interest in and to the tract of land described in Exhibit "A" hereto, and made a part hereof, including the leasehold under a certain ground lease dated May 1, 1979, in which Swan Lake Moulding Company is lessor, and Frederick D. Ehlers and Helen Ann Ehlers are lessees.

Mortgagee agrees to notify Swan Lake Moulding Company of any default by Frederick D. Ehlers and Helen Ann Ehlers, and Swan Lake Moulding Company has thirty days to cure default before accelerating Mortgage.

together with (1) all interests, easements, rights and privileges now or hereafter belonging to or used in connection with this property and with all improvements, fixtures, furnishings, flora, appliances and apparatus of any nature now or hereafter attached to, adapted to, located on or used in connection with this property, (2) all interests the Mortgagor may hereafter acquire, and (3) the rents, proceeds and profits thereof. All of the foregoing shall constitute the Property.

This conveyance is made to secure payment of all the following: (1) Sums due under a certain promissory note of the same date, executed by Mortgagor in the sum of Four Million Five Hundred Thousand and No/100 Dollars (\$ 4,500,000.00) with the final payment due on the first day of April 1995, which is the maturity date of this Mortgage, (2) all further sums which may be loaned or advanced by the Mortgagee to the Mortgagor, or any of them, and (3) any additional sums which may become payable to Mortgagee under the provisions of this Mortgage, any building loan agreement in connection herewith, or any other security instruments securing this loan.

Unless otherwise provided, all additional sums becoming payable to Mortgagee under this Mortgage shall be due immediately and shall bear interest until paid at the rate of ten per centum (10%) per annum or the rate provided above, whichever is higher. twelve 12

Each Mortgagor, jointly and severally, covenants and agrees as follows:

#### 1. Covenant of Title, Title Insurance.

Mortgagor is the owner in fee simple (or, if it has so advised Mortgagee in writing, the lessee) of the Property and is entitled to possession of same. Mortgagor has the right to convey the Property and it is free from encumbrances, except those previously accepted by Mortgagee in writing. Mortgagor will keep the Property free from all encumbrances and will warrant and defend it forever against all claims and demands. Mortgagor will forthwith provide Mortgagee with title insurance insuring its first mortgage lien on the Property in the amount of the secured loan, the insurer to be satisfactory to Mortgagee.

#### 2. Payment.

Mortgagor will pay when due all secured sums described above.

#### 3. Preservation, Repair and Use of Property.

Mortgagor will keep the Property in good condition and repair and will not remove, alter or demolish any structure on it without the written consent of Mortgagee. Mortgagor will complete all structures now or hereafter under construction on the Property, and will completely repair and reconstruct any structure on the Property which may be damaged or destroyed. Mortgagor will pay when due all claims for labor performed and materials furnished. Mortgagor will comply with all laws, ordinances, codes, orders, regulations and restrictions affecting the Property and will not commit or permit waste of the Property. Mortgagor will not use the Property for any unlawful purpose.

#### 4. Insurance, Taxes and Reserves.

a. The Property shall be covered by fire insurance with extended coverage, such liability insurance as Mortgagee may require, and, if required by Mortgagee, flood insurance, in amounts as may from time to time be required by Mortgagee. The insurance companies and policies must be satisfactory to Mortgagee with loss payable to Mortgagee.

b. Unless this covenant is prohibited by law or waived in writing by Mortgagee, Mortgagor will pay Mortgagee each month a sum equal to one-twelfth of the annual taxes, assessments and similar charges on the Property as estimated by Mortgagee. Mortgagee will apply such sums to payment of those items when due. Sums paid by Mortgagor under this provision shall not earn interest and may be co-mingled with other funds of Mortgagee. If Mortgagee is required by law to pay interest on these sums, they shall earn interest at the lowest permissible rate, and Mortgagee may impose any reasonable and lawful charge for holding and disbursing such funds.

c. If Mortgagee waives the preceding covenant to prepay taxes, assessments or similar charges, or if Mortgagor does not make prepayments sufficient for Mortgagee to pay such charges, then Mortgagor shall pay such charges when due and upon demand provide Mortgagee satisfactory evidence of such payment and coverage. Such payment does not excuse breach of the covenant to prepay such charges to Mortgagee.

d. In case of loss by any hazard, casualty, or contingency insured against, or in case of any condemnation proceedings, Mortgagor shall give immediate notice thereof to Mortgagee and Mortgagee may either (1) direct Mortgagor to collect the proceeds or award, in which case Mortgagor shall do so with due diligence, or (2) collect the proceeds or award itself, in which case Mortgagor shall cooperate as directed by Mortgagee. In either case, the proceeds or award shall be paid to Mortgagee (and all insurers or condemning authorities are hereby authorized to make such payment to Mortgagee), and Mortgagee is authorized, after reimbursing itself from such proceeds or award for any expenses incurred in the collection or handling of the funds, to hold all or part of the net proceeds or award for payment of costs of restoration or repair of the property damaged, destroyed or condemned and/or to apply all or part of the net proceeds as a credit on any portion of the secured debt selected by Mortgagee, whether then matured or to mature in the future, or on any deficiency judgment. Mortgagee shall not be responsible for any failure to collect any proceeds or award, regardless of the cause of such failure. The foregoing power and authority is irrevocable and coupled with an interest, and nothing done under this paragraph shall in any way waive any default or affect the security of this Mortgage or any liability of Mortgagor. Foreclosure hereof shall not affect or impair the above granted powers and authority.

## 5. Leasehold Provisions.

Mortgagor will not default on any leases on the property to which Mortgagor is or may become a party, or materially modify any such lease without Mortgagee's written consent. Where Mortgagor is Lessor, Mortgagor will not accept any prepayment of rentals without Mortgagee's consent, and will diligently enforce its rights and exercise its best efforts to continue the lease in effect.

## 6. Protection of Mortgagee's Security.

Should Mortgagor fail to make any payment or to do any act as herein provided, then Mortgagee without notice to Mortgagor and without releasing Mortgagor from any obligation hereof, may make or do the same in such manner and to such extent as Mortgagee may deem reasonably necessary to protect the security of this Mortgage. Mortgagor agrees to pay Mortgagee all expenses incurred by Mortgagee in the foregoing. Mortgagee is authorized to enter upon the Property for such purposes. Mortgagee may pay, purchase, contest or compromise any encumbrance, charge or lien which in its judgment appears to be prior or superior to the lien of this Mortgage.

## 7. Attorneys' Fees and Expenses.

If Mortgagee takes any action to cure a default hereunder, to collect sums due hereunder, to foreclose this Mortgage or to appear in any suit or proceedings in which it may be reasonably necessary for Mortgagee to appear in order to protect Mortgagee's security interest under this Mortgage, Mortgagor agrees to pay to Mortgagee all costs and expenses of such action, including reasonable attorney's fees (including fees on appeal) and the costs of title search, regardless of whether legal proceedings are employed.

## 8. Assignment of Rents; Receiver; Operation.

As additional security, Mortgagor assigns to Mortgagee all rents and revenues from the Property and assigns to Mortgagee any leases now or hereafter in effect upon the Property or any part thereof. Mortgagor will execute such documents as Mortgagee may require to evidence further the foregoing. Mortgagor grants to Mortgagee the authority, upon default, to collect the rents and proceeds of and from the Property. Upon any such default, and without notice, Mortgagee or a receiver to be appointed by a court (to which appointment Mortgagor herewith consents without regard to the adequacy of the security or other considerations), may enter upon and take possession of the Property or any part thereof, and any personal property securing the indebtedness, may lease or rent all or part of the property, may operate all or part of the property, all as it deems appropriate, and may sue for or otherwise collect rents and proceeds, including those past due and unpaid, and apply the same, less all costs and expenses of operation and collection, including reasonable attorney's fees and management fees, upon any indebtedness secured hereby in such order as Mortgagee may determine.

## 9. Relevant Financial Information.

Upon demand, Mortgagor will provide Mortgagee with operating statements and other financial information relevant to the use, operation and income of the Property. Mortgagee may inspect Mortgagor's books and records at any reasonable time.

## 10. Transfer of Property; Assumption; Conditions.

a. This loan is personal to Mortgagor and not assignable. In making it, Mortgagee has relied on Mortgagor's credit, Mortgagor's interest in the premises, and financial market conditions at the time this loan is made. If Mortgagor hereafter transfers or contracts to transfer title to or possession of any part of the property, by deed, contract of sale, lease or similar, then Mortgagee may declare the entire balance of the loan secured hereby immediately due and payable.

b. Mortgagee will waive its rights under the preceding subparagraph if the following conditions are met: (1) The credit of the third party is satisfactory to Mortgagee; and (2) the third party shall assume full personal liability for payment and performance of the note, Mortgage and other security instruments; and (3) a reasonable charge for administrative costs is paid to Mortgagee; and (4) if required by Mortgagee, either the interest rate on the secured loan is increased by not more than one (1%) percent (e.g. from 8% to 9%), or the Mortgagee is paid a lump sum compensation not to exceed four (4%) percent of the loan balance at the time of assumption.

c. Any increase in the interest rate shall entitle Mortgagee to increase the monthly payments on the loan so as to maintain the amortization rate.

d. Assumption does not relieve Mortgagor or others from personal liability unless specifically agreed otherwise.

## 11. Default; Acceleration; Remedies.

a. Time is material and of the essence hereof. Upon default by Mortgagor in payment of any indebtedness secured hereby, or in the performance of any provision contained in this Mortgage, or if a proceeding under any bankruptcy, receivership or insolvency law be instituted by or against the Mortgagor or any of them, or if the Mortgagor or any of them make an assignment for the benefit of creditors, or if state laws are changed hereafter to impose what Mortgagee may deem to be a substantial tax upon Mortgagee by reason of its interest in this Mortgage (unless Mortgagor may lawfully pay such tax and does so), then this Mortgage shall be in default. Any default under this Mortgage shall constitute a default under the note which it secures and under all other security instruments securing the note. Any default under such other security instruments or any building loan agreement executed in connection herewith shall constitute a default under this Mortgage. In the event of default, Mortgagee may declare all sums secured hereby immediately due and payable. If default occurs during a period of time in which prepayment is not permitted, a compensatory payment in the amount of 8% of the principal balance due hereunder shall be added to the sum due hereunder. If default occurs during a period of time in which prepayment is permitted only on payment of a fee, the fee shall be computed as if the sum declared due on default were a prepayment and shall be added to the sum due and payable hereunder. This Mortgage may then be foreclosed. Proceeds of foreclosure shall be applied to (1) the expenses of foreclosure, including attorney's fees, and (2) obligations secured hereby. Surplus, if any, shall be paid to persons entitled thereto by law.

b. Mortgagor, and each of them, consents to a personal deficiency judgment for any part of the debt hereby secured which shall not be paid by the sale of the Property, and expressly waives (1) any claim of homestead and (2) all rights to possession of the premises during the period allowed by law for redemption.

c. Mortgagee is not obligated to take any action which this Mortgage provides it "may" take. Any power given Mortgagee by this Mortgage may also be exercised by such agents as Mortgagee may designate.

## 12. Non-Waiver Provisions.

Neither forbearance by Mortgagee in exercising any right or remedy hereunder or remedy afforded by law, nor any exercise by Mortgagee or those acting in its interest of any right or remedy, shall cure or waive any default or notice of default, nor shall any of the foregoing be a waiver of or preclude the exercise of any right or remedy. All remedies provided in this Mortgage are distinct and cumulative to each other and to all other rights or remedies, and may be exercised concurrently, independently or successively.

## EXHIBIT "A"

DESCRIPTION

22948

A parcel of land lying in the Northwest quarter of Section 3, Township 39 South, Range 9 East of the Willamette Meridian, in the County of Klamath, State of Oregon, being more particularly described as follows:

Starting at the Northwest corner of said Section 3; thence South 00° 00' 30" East along the Westerly boundary of Section 3 and the centerline of Washburn Way, 917.42 feet to the intersection with the present centerline of Sixth Street, formerly known as the Dalles-California Highway, recorded bearing South 55° 52' 30" East, at Engineers Station 9 + 17.42 feet on Washburn Way and Engineers Station 16 + 14.87 feet on Sixth Street present centerline, and continuing thence along said boundary and centerline 48.32 feet to Engineers Station 9 + 65.74 feet on South boundary of Sixth Street, which is distant 40 feet at right angles South-westerly from centerline of Sixth Street at Engineers Station 16 + 41.99 feet; thence South 55° 52' 30" East parallel to said centerline 463.02 feet to the true point of beginning of this description; thence from said true beginning point continuing South 55° 52' 30" East parallel to said centerline 795.36 feet; thence at right angles South 34° 07' 30" West, 204.00 feet; thence South 55° 52' 30" East parallel to Sixth Street 145.00 feet; thence at right angles South 34° 07' 30" West, 183.80 feet, more or less, to Northerly right of way line of the Oregon, California and Eastern Railroad; thence North 66° 57' 30" West along said line 982.45 feet, more or less, to a point on the Easterly right of way line of Washburn Way which is 40.00 feet Easterly of said centerline; thence North 00° 00' 30" West along said right of way line 503.39 feet; thence South 55° 52' 30" East, 306.22 feet; thence North 34° 07' 30" East, 160.00 feet to the true point of beginning.

PLEASE  
INITIAL

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A.D.C.

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## 13. Waiver by Non-Obligated Persons.

Notwithstanding any other provision of this Mortgage, any person who executes this Mortgage, but not the note secured hereby, or who executes the note with a disclaimer of personal liability, shall have no personal liability on the note or for any deficiency judgment which may be obtained upon foreclosure. Such persons jointly and severally waive presentment, demand, protest and all notices and agree that Mortgagee, without notice to them or their consent, and upon such terms as Mortgagee may deem advisable, and without affecting in any way Mortgagee's rights hereunder, may:

- Extend, release, surrender, exchange, compromise, discharge or modify any right or obligation secured by or provided by this Mortgage or any other instrument securing this loan, or
- Take any other action which Mortgagee may deem reasonably appropriate to protect its security interest in the Property.

## 14. Successors and Assigns.

This Mortgage applies to, binds and benefits all parties hereto, their heirs, legatees, devisees, administrators, executors, successors, assigns and pledgees. In this Mortgage, whenever the context so requires, the singular includes the plural.

## 15. Notices, Refunds.

All notices and reserve account refunds shall be given and paid to Mortgagor unless this loan has been assumed in accordance with paragraph 11 and Mortgagee has received a properly executed assignment of reserve account(s), notwithstanding Mortgagee's receipt and acceptance of payments from a person other than Mortgagor.

Frederick D. Ehlers  
Frederick D. Ehlers

Helen Ann Ehlers  
Helen Ann Ehlers

STATE OF OREGON

County of Klamath

} ss.

SWAN LAKE MOULDING COMPANY

By Alfred V. Collier  
Alfred V. Collier, President

By Dorothy V. Collier  
Dorothy V. Collier, Secretary

Personally appeared the above named Frederick D. Ehlers and Helen Ann Ehlers, also known as Helen A. Ehlers, husband and wife, the foregoing instrument to be their

voluntary act and deed. Before me:

Robert C. Patterson  
Notary Public for  
My commission expires: 6/7/80

STATE OF OREGON

County of Klamath

} ss.

Personally appeared Alfred D. Collier  
Dorothy V. Collier

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 Swan Lake Moulding Company,

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:

Robert C. Patterson  
Notary Public for  
My commission expires: 6/7/80

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record at request of Transamerica Title Co.this 27th day of September A. D. 1979 at 3:42 o'clock P. M., anduly recorded in Vol. 179, of Mortgages on Page 22946

Wm D. MILNE, County Clerk

By Dorothy V. Collier

Fee \$14.00