

15184

TRUST DEEDCollateral

THIS TRUST DEED is made this 30th day of August, 1982, by and between the grantor, John T. Bowers and Darlene M. Bowers, husband and wife, (herein referred to as Borrower), the trustee, David H. Leonard, an attorney who is an active member of the Oregon State Bar (herein referred to as Trustee), and Eastern Indemnity Company of Maryland, as beneficiary (herein referred to as Beneficiary).

The Borrower conveys to the Trustee, in trust, with power of sale, the property in Klamath County, Oregon, described as:

See Exhibit "A" attached hereto and by this reference incorporated herein and made a part hereof.

(which real property is not currently used for agricultural, timber, or grazing purposes) together with all appurtenances, tenements, hereditaments, rents, issues, profits, mineral, oil and gas rights and profits, water, water rights, and water stock, and all fixtures now or hereafter attached to the property, including replacements and additions thereto, easements or privileges now or hereafter belonging to, derived from or in anyway appertaining to the above described premises (which is herein referred to as the Property).

This conveyance is intended as a deed of trust to secure the performance of the covenants and agreements contained in An Indemnity Agreement (herein referred to as the "Agreement") dated May 27, 1982 between Bowers Excavating and Fencing and John T. Bowers and Eastern Indemnity Company of Maryland, up to and including the amount of Two hundred thousand and no/100 (\$200,000.00).

In addition, this Trust Deed shall secure to Beneficiary (a) the payment of all sums advanced herewith to protect the security of this Trust Deed, interest thereon;

AFTER RECORDING,
RETURN TO:

Churchill, Leonard,
Brown & Donaldson
530 Center Street, NE
Salem, Oregon 97301

UNTIL A CHANGE IS REQUESTED, ALL
TAX STATEMENTS SHALL BE SENT TO:

John T. Bowers
2742 Vale
Klamath Falls, Oregon 97601

and (b) the performance of the covenants and agreements incorporated by reference hereinto; and (c) the repayment of any future advances, with interest thereon, made to Borrower by Beneficiary.

Borrower and Beneficiary covenant and agree as follows:

1. Borrower's Rights in the Property. Borrower hereby covenants to and with the Trustee and the Beneficiary that they are lawfully seized in fee simple of said premises and have a valid, unencumbered title thereto, except: Mortgage to First National Bank of Oregon recorded October 16, 1973 in Volume M73, page 13932, Microfilm records of Klamath County, Oregon, to secure \$21,000.00; easements, rights of way and rights of assessment of record.

2. Principal and Interest. Borrower shall promptly pay when due the obligations incurred pursuant to the Agreement, up to the total amount stated above.

3. Taxes and Liens. Borrower shall pay when due all taxes, assessments and other charges against the property and keep in good standing and free from delinquencies all obligations under any mortgage or other lien which is prior to this Trust Deed.

Borrower shall allow no other lien or encumbrance which would have precedence to this Trust Deed to exist. However, Borrower shall not be required to discharge any such other lien so long as Borrower (1) shall agree with lender in writing to the payment of the obligation secured by such lien in a manner acceptable to Beneficiary, (2) or shall in good faith contest such lien by, or defend enforcement of such lien in legal proceedings which operate to prevent the enforcement of the lien or forfeiture of the property or any part thereof.

4. Insurance. Buyer agrees to keep all improvements now existing, or which shall hereafter be placed on the property, insured against fire and other casualties covered by a standard policy of fire insurance with extended coverage endorsements, and against flood and such other hazards as Beneficiary may require and in such amounts and for such periods as Beneficiary may require; provided, that Beneficiary shall not require that the amount of such coverage exceed that amount of coverage required to pay the sums secured by this Trust Deed.

If under Section 14 (Acceleration; Remedies) hereof, the property is acquired by Beneficiary, all right, title, and interest of Borrower in and to any insurance policies and in and to the proceeds thereof resulting from damage to

the property prior to the sale or acquisition shall pass to Beneficiary. However, the interest of the Beneficiary shall not exceed the sums secured by this Trust Deed immediately prior to such sale or acquisition.

5. Preservation and Maintenance of Property. Borrower shall keep the buildings and other improvements now or hereafter existing on said premises in good repair and not remove or demolish or permit the removal or demolition of any thereof; not commit or suffer waste of any kind upon said premises; not use or permit the use of said premises for any unlawful or objectionable purpose; and do all acts and things necessary to preserve all rights now or hereafter appurtenant to or used in connection with said premises.

6. Protection of Beneficiary's Security. If Borrower fails to perform the covenants and agreements contained in this Trust Deed, or if any action or proceeding is commenced which materially affects Beneficiary's interest in the property, including, but not limited to, eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankrupt, then Beneficiary at Beneficiary's option, upon notice to Borrower, may make such appearances, disburse such sums and take such action as is necessary to protect Beneficiary's interest, including, but not limited to, disbursement of reasonable attorney's fees and entry upon the property to make repairs. Any amounts disbursed by Beneficiary pursuant to this paragraph shall become additional indebtedness of Borrower secured by this Trust Deed. Unless Borrower and Beneficiary agree to other terms of payment, such amounts shall be payable upon notice from Beneficiary to Borrower requesting payment thereof, and shall bear interest from the date of disbursement at the rate of 12% per annum. Nothing contained in this paragraph shall require Beneficiary to incur any expense or do any act hereunder.

7. Inspection. Beneficiary may make or cause to be made reasonable entries upon and inspections of the property, provided that Beneficiary shall give borrower notice prior to any such inspection specifying reasonable cause therefor related to Beneficiary's interest in the property.

8. Borrower Not Released. Modification of any of the terms of the Agreement secured by this Trust Deed or any other waiver or modifications granted by Beneficiary to any successor in interest of Borrower shall not operate to release, in any manner, the liability of the original Borrower and Borrower's successors in interest.

9. Forbearance Not a Waiver. Any forbearance by Beneficiary in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any right or remedy hereunder.

10. Remedies Cumulative. All remedies provided in this Trust Deed are distinct and cumulative to any other right or remedy under this Trust Deed or afforded by law or equity, and may be exercised concurrently, independently or successively.

11. Successors and Assigns Bound; Joint and Several Liability; Captions; Severability. The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Beneficiary and Borrower, provided, however, that nothing contained in this sentence shall alter the restrictions herein contained relating to assignment. All covenants and agreements of borrowers, makers, sureties, guarantors, and endorsers shall be joint and several. The captions and headings of the paragraphs of this Trust Deed are for convenience only and are not to be used to interpret or define the provisions hereof. In the event that any provision or clause of this Trust Deed or the Agreement conflicts with applicable law, such conflicts shall not affect other provisions of this Trust Deed or the Agreement which can be given effect without the conflicting provision, and to this end each and every provision of the Trust Deed and of the Agreement are declared to be severable.

12. Notice. Any notice to Borrower provided for in this Trust Deed shall be given by mailing such notice by certified mail addressed to Borrower at the property address stated below, except for any notice required to be given to Borrower in the manner prescribed by applicable law. Any notice provided for in this Trust Deed shall be deemed to have been given to Borrower when given in the manner designated herein.

13. Transfer of the Property; Assumption. The Agreement secured by this Trust Deed is personal to the Borrower. If the loan is made upon property occupied or to be occupied by Borrower, such occupancy is a material inducement to Beneficiary to make said loan. If title to said property shall pass from Borrower by deed or otherwise or said property shall be sold on contract, or if the property shall be vacated by the Borrower, Beneficiary may, at its option, enforce any of the terms and provisions of the Agreement.

14. Acceleration; Remedies. Upon Borrower's breach of any covenant or agreement of Borrower in this Trust Deed, Beneficiary prior to acceleration shall mail notice to Borrower as provided in Section 12 (Notice) hereof specifying; (1) the breach; (2) the action required to cure such breach; (3) a date, not less than thirty days from the date the notice is mailed to Borrower, by which such breach must be cured; and (4) that failure to cure such breach on or before the date specified in the notice may result in default of the Agreement secured by this Trust Deed and sale of the property. If the breach is not cured on or before the date specified in the notice, Beneficiary at Beneficiary's option may declare all of the sums secured by this Trust Deed to be immediately due and payable without further demand and may invoke the power of sale and any other remedies permitted by applicable law. Beneficiary shall be entitled to collect all reasonable costs and expenses incurred in pursuing the remedies provided in this paragraph, including, but not limited to, reasonable attorney's fees.

If Beneficiary invokes the power of sale, Beneficiary shall execute or cause Trustee to execute written notice of the occurrence of an event of default and of Beneficiary's election to cause the property to be sold, and shall cause such notice to be recorded in each county in which the property or some part thereof is located. Beneficiary or Trustee shall give notice of sale in the manner prescribed by applicable law to Borrower and to the other persons prescribed by applicable law. After the lapse of such time as may be required by applicable law, Trustee, without demand on Borrower, shall sell the property at public auction to the highest bidder at the time and place and under the terms designated in the notice of sale in one or more parcels and in such order as Trustee may determine. Trustee may postpone sale of all or any parcel of the property by public announcement at the time and place of any previously scheduled sale. Beneficiary or Beneficiary's designee may purchase the property at any sale.

Trustee shall deliver to the purchaser a Trustee's Deed conveying the property so sold without any covenant or warranty, expressed or implied. The recitals in the Trustee's Deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order; (a) to all reasonable costs and expenses of the sale, including, but not limited to, reasonable Trustee's and attorney's fees and costs of title evidence; (b) to all sums secured by this Trust Deed; and (c) the excess, if any, to the person or persons legally entitled thereto.

15. Borrower's Right to Reinstate. Borrower shall have the right to have any proceedings begun by Beneficiary to enforce this Trust Deed discontinued at any time prior to five days before sale of the property pursuant to the power of sale contained in this Trust Deed or at any time prior to entry of a judgment enforcing this Trust Deed if: (a) Borrower pays Beneficiary all sums which would be then due under this Trust Deed and the Agreement; (b) Borrower cures all breaches of any other covenants or agreements of Borrower contained in this Trust Deed; (c) Borrower pays all reasonable expenses incurred by Beneficiary and Trustee in enforcing the covenants and agreements of Borrower contained in this Trust Deed and in enforcing Beneficiary's and Trustee's remedies as provided in Section 14 hereof, including, but not limited to, reasonable attorney's fees; and (d) Borrower takes such action as Beneficiary may reasonably require to assure that the lien of this Trust Deed, Beneficiary's interest in the property and Borrower's obligation to pay the sums secured by this Trust Deed shall continue unimpaired. Upon such payment and cure by Borrower this Trust Deed and the obligations secured hereby shall remain in full force and effect as if no acceleration had occurred.

16. Appointment of Receiver, Beneficiary in Possession Upon abandonment of the property, Beneficiary, in person, by agent or by judicially appointed receiver shall be entitled to enter upon, take possession of and manage the property and to collect the rents of the property including those past due. All rents collected by Beneficiary or the receiver shall be applied first to payment of the costs of management of the property and collection of rents, including but not limited to, receiver's fees, premiums on receiver's bonds and reasonable attorney's fees, and then to the sums secured by this Trust Deed. Beneficiary and receiver shall be liable to account only for those rents actually received.

17. Reconveyance. Upon satisfaction of the obligations secured by this Trust Deed, Beneficiary shall request Trustee to reconvey the property and shall surrender this Trust Deed and all agreements evidencing indebtedness secured by this Trust Deed to Trustee. Trustee shall reconvey the property without warranty to the person or persons legally entitled thereto. Such person or persons shall pay all costs of reconveyance and recordation, if any.

18. Substitute Trustee. In accordance with applicable law, Beneficiary may from time to time remove Trustee and appoint a successor trustee to any Trustee appointed hereunder. Without conveyance of the property, the successor trustee shall succeed to all the title, power and

duties conferred upon the Trustee herein and by applicable law.

19. Attorney's Fees. As used in this Trust Deed, "attorney's fees" shall include attorney's fees, if any, which shall be awarded by an appellate court.

20. Final Agreement. This Trust Deed contains all the terms and conditions agreed on by the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this Trust Deed, shall be deemed to exist or to bind any of the parties hereto.

21. Borrower's Copy. Borrower shall be furnished a copy of this Trust Deed at the time of execution or after recordation hereof.

IN WITNESS WHEREOF, Borrower has executed this Trust Deed.

John T. Bowers
John T. Bowers
Borrower

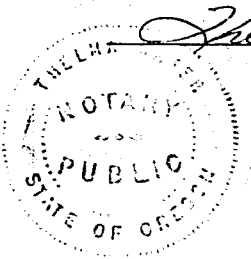
Address for Notice
Section 12:

John T. Bowers
2742 Vale
Klamath Falls, OR 97601

Darlene M. Bowers
Darlene M. Bowers
Borrower

STATE OF OREGON)
) ss.
County of Lane)

On this 30th day of August, 1982, personally appeared the above-named John T. Bowers and Darlene M. Bowers, husband and wife, and acknowledged the foregoing instrument to be their voluntary act and deed before me:



Thelma Baker
Notary Public for Oregon
My Commission expires:

10-28-83

EXHIBIT A

DESCRIPTION

11581

The Westerly half of the following parcels of land:

Beginning at the Southwest corner of premises described in deed from H. M. Mallory and Christine Mallory, husband and wife, to Fremont Glass & Millwork Co., recorded April 14, 1969 in Volume M69, page 2675, Microfilm Records of Klamath County, Oregon; thence South along the East line of Washburn way 40 feet to the true point of beginning; thence continuing South along the East line of Washburn Way 200 feet to a point; thence East parallel to the South line of said Fremont Glass & Millwork Co. tract to a point on the East line of Lot 3, Block 4, THIRD ADDITION TO ALTAMONT ACRES, which is South 94.55 feet from the Northeast corner of said lot; thence North along the East line of Lot 2, Block 4, 40 feet South of said Northeast corner of Lot 2, Block 4, said subdivision; thence West parallel to the South line of said Fremont Glass & Millwork Co. tract to the true point of beginning.

A portion of SW $\frac{1}{4}$ of Section 10, Township 39 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon: Beginning at the Southwest corner of premises described in Deed from H. M. Mallory and Christine Mallory to Fremont Glass and Millwork Co., recorded April 14, 1969 in Volume M69, page 2675, Microfilm Records of Klamath County, Oregon; thence South 00° 02' 15" East, along the East right of way line of Washburn Way, 40.00 feet to the true point of beginning; thence continuing South 00° 02' 15" East along said East right of way line, 71.11 feet; thence South 89° 30' East parallel to and 111.11 feet distant from the Southerly line of the premises described in said Deed from H. M. Mallory and Christine Mallory to Fremont Glass and Millwork Company, to a point on the West line of Lot 2, Block 4, THIRD ADDITION TO ALTAMONT ACRES, Klamath County, Oregon, which is South 00° 07' East, 111.11 feet from the Northwest corner of said Lot 2; thence North 00° 07' West along the the Westerly line of said Lot 2, 71.11 feet to a point on the West line of said Lot 2, said point being South 00° 07' East 40.00 feet from the Northwest corner of said Lot 2; thence North 89° 30' West, parallel to and 40.00 feet distant from said Southerly line of said Fremont Glass and Millwork Tract to the point of beginning.

Also, the following described real property in Klamath County, Oregon:

Beginning at the Southwest corner of premises described in Deed from H. M. Mallory and Christing Mallory, husband and wife, to Fremont Glass & Millwork Co., recorded April 14, 1969 in Volume M69, page 2675, Microfilm Records of Klamath County; thence South along the East line of Washburn Way 111 feet to the true point of beginning; thence continuing South along the East line of Washburn Way 15 feet to a point; thence East parallel to the South line of said Fremont Glass & Millwork Co. tract to a point on the East line of Lot 2, Block 4, THIRD ADDITION TO ALTAMONT ACRES which is South 126.11 feet from the Northeast corner of said Lot; thence North along the East line of said Lot 2, Block 4, 111 feet South of said Northeast corner of Lot 2, Block 4 said subdivision; thence West parallel to the South line of said Fremont Glass & Millwork Co. tract to the true point of beginning.

STATE OF OREGON: COUNTY OF KLAMATH :ss

I hereby certify that the within instrument was received and filed for record on the -2 day of Sept A.D., 1982 at 11:18 o'clock A M, and duly recorded in VolM 82, of Mtge on page 11574.

EVELYN BIEHN COUNTY CLERK

Fee \$ 32.00

by Joyce Mc Lane Deputy