

ASSIGNMENT AND MORTGAGE

DATE: August 16<sup>th</sup>, 1983

PARTIES: CERTIFIED MORTGAGE CO., and Oregon corporation  
836 Klamath Avenue  
Klamath Falls, OR 97601

## Assignor-Mortgagor

SOUTH VALLEY STATE BANK, an Oregon Banking  
Corporation  
5215 South Sixth Street  
Klamath Falls, OR 97601

## Assignee-Mortgagee

## R E C I T A L S:

A. The Assignor-Mortgagor is the Beneficiary of a certain Trust Deed and the Vendor under certain contracts of sale of real property in Klamath County, Oregon.

B. The Assignor-Mortgagor desires to borrow funds from the Assignee-Mortgagee and to use its' interest in the above-mentioned real property as security for said loan.

C. In consideration of the loan of money hereinafter described, the Assignor-Mortgagor assigns and mortgages and the parties agree as follows:

## AGREEMENTS:

SECTION 1. ASSIGNMENT:

1.1 For value received by Assignor from Assignee, Assignor hereby grants, bargains, sells and conveys to Assignee, its successors and assigns, all of Assignor's right, title and interest in the following interests in real property:

(i) Contract, including the terms and provisions thereof, dated May 7, 1980, recorded May 12, 1980 in Book M-80 at page 8651 wherein Ruth A. Ainsworth is Vendor and Les H. Crawford and Patricia L. Crawford are Vendees; the Vendors' interest in said contract was assigned by instruments dated March 11, 1981 and recorded on March 13, 1981 in Book M-81 at page 4656 and dated March 20, 1981 and recorded on April 30, 1981 in Book M-81 at page 7667 in favor of Certified Mortgage Co., an Oregon corporation concerning the following described real property:

Lot 6, Block 11, FIRST ADDITION TO KLAMATH  
RIVER ACRES, in the County of Klamath, State  
of Oregon

hereinafter called the "Klamath River Property".

(ii) Trust Deed, including the terms and provisions thereof given to secure the sum of \$14,500.00, dated July 10, 1980, recorded July 11, 1980 in Book M-80 at page 12927, wherein

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Stanley M. Downs, C. Eloise Downs, Ira A. Wolchin and Louise H. Wolchin are Trustors, Mountain Title Co. is Trustee and Roy E. Welsh and Mildred Welsh are Beneficiaries. The Beneficiaries' interest in said Trust Deed was assigned by instrument dated June 22, 1981 and recorded June 25, 1981 in Book M-81 at page 11475 to Town and Country Mortgage and Investment Co., an Oregon corporation, which Beneficiaries' interest was assigned to Certified Mortgage Co., an Oregon corporation by instrument dated August 15, 1983 and recorded in Book M-83 at page 13747, concerning the following described real property:

Lot 25, Block 1, RAINBOW PARK ON THE WILLIAMSON,  
in the County of Klamath, State of Oregon

hereinafter called the "Rainbow Park Property".

(iii) Contract, including the terms and provisions thereof, dated March 18, 1977, recorded April 11, 1977 in Book M-77 at page 6053, wherein Walter A. Dietz was Vendor and David L. Doud was Vendee; the Vendors' interest in said contract was assigned by instrument recorded on June 25, 1980 in Book M-80 at page 11719 to Timothy J. Dietz; which Vendors' interest was assigned by instrument dated July 10, 1981, recorded on July 14, 1981 in Book M-81 at page 12660 to Certified Mortgage Co., an Oregon corporation, concerning the following described real property:

All of Lot 5, Block 36, ORIGINAL TOWN OF LINKVILLE (now City of Klamath Falls), EXCEPTING THEREFROM a strip of land 1 foot in width off the Easterly side of said Lot 5 and a strip of land 8 feet in width off the rear end of said Lot 5, reserved as an alley in the County of Klamath, State of Oregon

hereinafter called the "Stevens Hotel Property".

(iv) Contract, including the terms and provisions thereof, dated June 6, 1980, a Memorandum of which was recorded on June 10, 1980 in Book M-80 at page 10615, wherein Patsy Williams was Vendor and Bruce G. Woken and Kay L. Woken are Vendees; said Vendors' interest in said contract was assigned by instrument dated June 8, 1981, recorded June 10, 1981 in Book M-81 at page 10455 to Town and Country Mortgage and Investment Co., an Oregon corporation; said Vendor's interest in said Contract was assigned by Town and Country Mortgage and Investment Co., an Oregon corporation, to Certified Mortgage Co., an Oregon corporation, by instrument dated August 15th, 1983 and recorded in Book M-83 at Page 13748, concerning the following described real property:

Lots 5 and 28, ROSELAWN, a Subdivision of Block 70, BUENA VISTA ADDITION TO THE CITY OF KLAMATH FALLS, also all of that portion of vacated alley lying between said Lots 5 and 28 of ROSELAWN, in the County of Klamath, State of Oregon.

hereinafter called the "Roselawn Property"

1.2. The Assignor warrants that the following amounts are now due to it under each of the encumbrances and that the Assignor will not accept any prepayments or pay-offs upon said encumbrances without applying the excess proceeds to the obligation of the Assignee herein:

PROPERTY	BALANCE
Klamath River	\$ 41,265.29
Rainbow Park	11,524.01
Stevens Hotel	43,561.44
Roselawn	29,229.70

1.3 In the event of default of the obligation hereinafter mentioned, the Assignor appoints the Assignee its attorney-in-fact with full power of substitution to enforce the obligations of the above-mentioned interests in real property and to collect the amounts due thereunder and apply the same to the obligation of the Assignor herein without prejudice to the other rights of the Assignee herein.

#### SECTION 2. CONVEYANCE:

For value received by Mortgagor from Mortgagee, Mortgagor hereby mortgages, grants, bargains, sells and conveys to Mortgagee, its successors and assigns, the following described real property, situated in the County of Klamath, State of Oregon, to-wit:

PARCEL 1. Lot 6, Block 11, FIRST ADDITION TO KLAMATH RIVER ACRES, in the County of Klamath, State of Oregon

PARCEL 2. Lot 25, Block 1, RAINBOW PARK ON THE WILLIAMSON, in the County of Klamath, State of Oregon

PARCEL 3. All of Lot 5, Block 36 ORIGINAL TOWN OF LINKVILLE (now City of Klamath Falls), EXCEPTING THEREFROM a strip of land 1 foot in width off the Easterly side of said Lot 5 and a strip of land 8 feet in width off the rear end of said Lot 5, reserved as an alley in the County of Klamath, State of Oregon

PARCEL 4. Lots 5 and 28, Roselawn, a subdivision of Block 70, BUENA VISTA ADDITION TO THE CITY OF KLAMATH FALLS, also all of that portion of vacated alley lying between said Lots 5 and 28 of ROSELAWN, in the County of Klamath, State of Oregon

together with the appurtenances now or hereafter belonging to the property, and all the rents, issues and profits arising or to arise therefrom. All property subject to this Mortgage is hereinafter referred to as the mortgaged premises. Until default, Mortgagor may remain in possession of the mortgaged premises, and may manage and collect all revenues from the mortgaged premises.

#### SECTION 3. PURPOSE:

This conveyance is intended as a mortgage to secure

### 3. ASSIGNMENT AND MORTGAGE

performance of the covenants and agreements herein contained and contained in any loan agreement, security agreement or other agreement between Mortgagor and Mortgagee, and to secure the payment of a loan or loans in the sum of Fifty Thousand and No/100ths (\$50,000.00) DOLLARS, as evidenced by a promissory note or notes held by the Mortgagee, together with interest payable on the unpaid balances thereof at the rates specified in the notes or at such other rates prescribed from time to time by Mortgagee in accordance with law and agreement with Mortgagor, any and all renewals or extensions thereof. All covenants and provisions of this Mortgage shall bind the successors and assigns of Mortgage and shall inure to the benefit of the successors and assigns of Mortgagee.

#### SECTION 4. WARRANTY OF TITLE

At the time of execution and deliver of this Mortgage, Mortgagor is the owner of the mortgaged premises in fee simple, or is the Beneficiary of a Trust Deed on the mortgaged premises. Mortgagor has the right and authority to mortgage the mortgaged premises as provided in this Mortgage, and the mortgaged premises are free and clear of liens and encumbrances, except as evidenced in Transamerica Title Insurance Preliminary Reports Number 38-26438; 38-26439; 38-26440 and 38-26441. Mortgagor will defend Mortgagee's rights against any liens and encumbrances other than those listed in this Mortgage.

#### SECTION 5. PAYMENT AND PERFORMANCE:

Mortgagor will pay, when due, the indebtedness secured by this Mortgage in accordance with the terms thereof. Mortgagor will strictly perform all obligations of this Mortgage and of any loan agreement or security agreement executed in connection with the indebtedness secured by this Mortgage. Mortgagor will promptly comply with all existing or future laws, orders and regulations of all state, federal, municipal and local governments or any similar bodies affecting the mortgaged premises or their use.

#### SECTION 6. ASSIGNMENT OF ISSUES AND PROFITS:

Mortgagor hereby assigns and transfer to mortgagee the issues and profits, together with full power and authority to demand, sue for and collect the same in the name of Mortgagor, or in its own name, and to take possession of and manage the mortgaged premises or to cause a receiver to be appointed for such purpose and apply the income therefrom, after the costs of collection and management, to the reduction of the indebtedness secured hereby. However, the right to collection and management shall not apply as long as this Mortgage is in good standing.

#### SECTION 7. DEFAULT:

7.1. Events of Default: The occurrence of any one or more of the following events shall constitute a default hereunder (a Default):

(a) Mortgagor's default in the timely payment of any indebtedness to Mortgagee when due;

(b) Mortgagor's failure to perform or observe all the provisions of this Mortgage;

(c) The happening of an event of default under any other agreement or security instrument between Mortgagor and Mortgagee;

(d) Mortgagor's insolvency or inability to pay its debts as they mature or Mortgagor's assignment for the benefit of creditors or filing of a voluntary petition in bankruptcy, or a voluntary petition seeking reorganization, or effecting a plan or other arrangement with creditors, or filing an answer consenting to or taking any other action indicating acquiescence in any involuntary petition pursuant to, or purporting to be pursuant to, any bankruptcy, reorganization or insolvency laws of any jurisdiction, or adjudication of Mortgagor as bankrupt or insolvent by any court of competent jurisdiction or appointment of a receiver for any substantial portion of Mortgagor's property.

(e) Sale or other transfer of the mortgaged premises, or any part thereof, without the prior written consent of Mortgagee.

7.2. Remedies on Default. If any default occurs, Mortgagee may, at its' option, declare the entire unpaid balance of principal and accrued interest secured by this Mortgage immediately due and payable, together with any prepayment penalties imposed by any agreement or security agreement between Mortgagor and Mortgagee, and foreclosure proceedings may be immediately commenced. The failure or Mortgagee to exercise any option given hereunder shall not be taken or deemed a waiver of its right to exercise its option as to any past or subsequent violation of any covenants or stipulations.

In addition to all other remedies provided herein, or by law, the Mortgagee under the Assignment provisions of this agreement may notify the payees under the obligations assigned to commence making payment to the Mortgagee.

#### SECTION 8. ATTORNEY FEES AND OTHER COSTS:

In the event suit or action is begun to foreclose this Mortgage, Mortgagor will pay, in addition to the costs and disbursements allowed by law, such sum as the court may adjudge reasonable attorney fees in such suit or action, or any appeal therefrom. Mortgagor will also pay such sums as the court may adjudge reasonable for the necessary examination and search of the public records respecting the title to the mortgaged premises. The plaintiff in such suit or action may take judgment therein for such sums. Mortgagor will pay to Mortgagee all sums, including costs, expenses and reasonable agent and attorney fees, which Mortgagee may expend or become obligated for in any proceedings, legal or otherwise, involving the title to the mortgaged premises, or to establish, protect or sustain the lien of this Mortgage, or its priority, or in defending against liens, claims, rights, estates, easements or restrictions, or for evidences of title to the mortgaged premises. Interest shall be paid to Mortgagee on all such sums as the rate then payable on the indebtedness secured hereby. This Mortgage shall stand as security for payment of these sums and interest in like manner and effect as for payment of the indebtedness secured.

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## SECTION 9. MISCELLANEOUS:

9.1 Terminology: 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.

9.2. Nonwaiver: No condition of this Mortgage shall be deemed waived unless expressly waived in writing by Mortgagee.

9.3 Notices: Whenever any notice, demand or request is required by the terms of this Mortgage or by any law now in existence or hereafter enacted, the notice, demand or request shall be sufficient if enclosed in a post paid envelope, addressed to Mortgagor at the last address actually furnished to Mortgagee, or at the mortgaged premises, and deposited in any post office, station or letter box.

9.4 Applicable Law. This Mortgage shall be governed by the law of the State of Oregon and any questions arising hereunder shall be construed or determined according to such law.

THE PARTIES have executed this Agreement as of the date first written.

ASSIGNOR-MORTGAGOR

CERTIFIED MORTGAGE CO., an  
Oregon corporation

By: Richard H. Marlatt  
President

STATE OF OREGON )

August 16, 1983

County of Klamath )

Personally appeared the above-named RICHARD H MARLATT who being sworn, stated that he is the President of CERTIFIED MORTGAGE CO., and that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and he acknowledged said instrument to be its voluntary act. Before me:

Imelda Mudock  
Notary Public for Oregon  
My Commission expires: 5/21/85

STATE OF OREGON, )  
County of Klamath )

Filed for record at request of

on this 16 day of August A.D. 19 83  
at 2:22 o'clock P M, and duly  
recorded in Vol. M83 of MTGES

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EVELYN BIEHN County Clerk

By Deputy Deputy

Fee 24.00

## 6. ASSIGNMENT AND MORTGAGE

Return:  
South Valley  
P.O. Box 5210  
Klamath Falls, Or  
97601