

# TRUST DEED

Dan N. McDonald  
Kathleen L. McDonald

TO

REAL ESTATE LOAN FUND OREG. LTD.

Loan No. 13009

Please Return to:  
MORTGAGE BANCORPORATION  
P.O. Box 230  
Salem, Oregon 97308  
Phone 363-3151

Taxes: No change

THIS TRUST DEED, made this 14th day of September, 19 83, between DAN N. McDONALD and KATHLEEN L. McDONALD, husband and wife, as Grantor (hereinafter referred to as the "Borrower"), MOUNTAIN TITLE COMPANY, INC., as Trustee, and REAL ESTATE LOAN FUND OREG. LTD., with principal offices located at Salem, Oregon (hereinafter referred to as the "Lender"); as Beneficiary,

## WITNESSETH:

Borrower irrevocably grants, bargains, sells and conveys to trustee in trust, with power of sale, the property in KLAMATH County, Oregon described as:

See Exhibit "A" attached hereto and by this reference made a part hereof:

## EXHIBIT "A"

### PARCEL 1:

The Easterly 142.5 feet of Block 50A, all of Blocks 50B, 59B, 59A, 59C, 60A, and 60B, in East Bonanza, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon, saving and excepting therefrom those portions thereof conveyed to Lost River Cemetery Association, Inc., by Deed recorded December 16, 1949 in Deed Volume 236, page 572, Records of Klamath County, Oregon.

### PARCEL 2:

A parcel of land located in the SE $\frac{1}{4}$  of Section 10, Township 39 South, Range 11 East of the Willamette Meridian, Klamath County, Oregon, being more particularly described as follows:

Beginning at the point of intersection of the Easterly line of West Park Street of East Bonanza, Oregon, with the South line of Section 10, T. 39 S., R. 11 E. W. M., said point of beginning being 1890 feet West of the Southeast corner of said Section 10; thence North along the East line of said West Park Street, 510 feet to a point; thence East at right angles to West Park Street, 250 feet to a point; thence North 30 feet to a point; thence East 80 feet to a point; thence South 30 feet to a point; thence East 70 feet to a point; thence South 300 feet to a point; thence East 290 feet to a point; thence South 510 feet, more or less to the Southerly line of said Section 10; thence West along said Section line 690 feet more or less to the point of beginning.

### PARCEL 3:

A parcel of land situate in the NE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 15, Township 39 South, Range 11 East of the Willamette Meridian, Klamath County, Oregon, being more particularly described as follows:

Beginning at an iron pin on the North line of Section 15, T. 39 S., R. 11 E. W. M. from which the Northeast corner of said Section 15 bears South 89° 06' 20" East 531.7 feet distant; thence South 0° 05' 30" East 184.55 feet to an iron pin; thence North 89° 40' 50" West 788.4 feet to an iron pin; thence North 0° 08' 40" East 192.45 feet, more or less, to a point on the North line of said Section 15; thence South 89° 06' 20" East 787.7 feet, more or less along the North line of said Section 15, to the point of beginning.

on full or all of the above items.

- (4) **Uses.** Borrower shall not use said Property for any unlawful purpose and shall comply with all laws, regulations, restrictions and conditions affecting said Property. Borrower further shall complete all buildings in the course of construction or to be constructed, within n/a days from the date hereof, unless otherwise agreed in writing by the Lender.
- (5) **Security Agreement.** It is hereby agreed that if any of the property secured hereby is of a nature so that a security interest therein can be perfected under the Uniform Commercial Code, Borrower grants to Lender a security interest therein, and this instrument shall constitute a Security Agreement and Borrower agrees to join with the Lender in the prompt execution of any financing statements and to execute any other instruments that may be required for the perfection or renewal of such security interest under the Uniform Commercial Code.

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TOGETHER with all buildings, structures and other improvements now or hereafter located on the property hereinbefore described, or any part and parcel thereof; and TOGETHER with all right, title and interest of Borrower in and to the minerals, oil, gas, flowers, shrubs, crops, trees, timber and other emblements now or hereafter on said property or under or above the same or any part or parcel thereof; and TOGETHER with all and singular the tenements, hereditaments, easements, riparian, accretion and littoral rights, and appurtenances thereunto belonging or in any wise appertaining, whether now owned or hereafter acquired by Borrower, and including all rights of ingress and egress to and from adjoining property (whether such rights now exist or subsequently arise), rights-of-way, together with the reversion, remainder, rent, royalty, revenue, benefit, issue and profits thereof; and also all the estate, right, title, interest, property, possession, claim and demand whatsoever, in law as well as in equity, of the Borrower of, in and to the same and of, in and to every part and parcel thereof; and TOGETHER with all machinery, apparatus, equipment, appliances, fittings, fixtures, whether actually or constructively attached to said property, and including all trade, domestic and ornamental fixtures, and articles of personal property of every kind and nature whatsoever, whether or not annexed thereto, now or hereafter located in, upon or under said Property or any part thereof and used or usable in connection with any present or future operation of said Property and now owned or hereafter acquired by Borrower; and TOGETHER with Borrower's interest as lessor in and to all letters of intent, leases of the Property, or any part thereof, heretofore made and entered into, and in and to all leases hereafter made and entered into by Borrower during the life of this trust deed or any extension or renewal hereof, reserving to Borrower its statutory equity and redemption rights therein, provided and hereby intending that in case of foreclosure sale the lessor's interest in any such leases then in force shall, upon expiration of Borrower's right of redemption, pass to the purchaser at such sale as a part of the subject property, subject to election by the purchaser to terminate or enforce any of such leases hereafter made; and TOGETHER with any and all awards or payments, including interest thereon, and the right to receive the same, as a result of (a) the exercise of the right of eminent domain, loss due to fire, volcanic eruption, flood, earthquake, earth slides, other act of God or act of violence; (b) the alteration of any street; or (c) any other injury to, taking of, or decrease in the value of, the Property, to the extent of all amounts which may be secured by this trust deed at the date of receipt of any such award or payment by Lender and of the reasonable attorneys' fees, cost and disbursements incurred by Lender in connection with the collection of such award or payment.

ALL the foregoing encumbered by this trust deed being collectively referred to herein as the "Property."

FOR THE PURPOSE OF SECURING (a) payment of the sum of \$ 64,500.00 to be paid in accordance with the terms of a certain promissory note (the "Note") (and any renewals, extensions, modifications or increases thereof), dated September 14 1983, the terms of which are herein incorporated by this reference, the principal and interest to be payable at the office of the Lender at Salem, Oregon, or at such other place as the holder thereof may designate; in the event a Construction Loan Agreement of even date is entered into between Borrower and Lender covering the property described above, such agreement shall be incorporated herein by reference and made a part hereof; (b) payment of additional advances and interest thereon, which may be made by Lender as provided by paragraph (14) of the trust deed; (c) payment of all other monies herein agreed to be paid by Borrower; and (d) performance of each agreement of Borrower contained in this trust deed or incorporated by reference in this trust deed.

CONDITIONED, HOWEVER, that if Borrower shall pay or cause to be paid to Lender, at its offices and principal place of business at Salem, Oregon, or at such other place as may hereafter be designated by Lender, its or their successors or assigns, with interest, the principal sum of \$ 64,500.00, unless amended or extended, according to the terms of the with maturity, if not sooner paid, no later than September 01, 1988, the aforementioned Note, executed by Borrower and payable to the order of Lender, as well as other sums, indebtedness, obligations and liabilities for which this instrument is security, and shall also fully perform all the covenants, conditions and terms of this trust deed, then these presents shall be void, otherwise to remain in full force and effect.

The above described real property is not currently used for agricultural, timber or grazing purposes.

To protect the security of this trust deed, **BORROWER COVENANTS AND AGREES:**

- (1) **Secured Indebtedness.** It is the intent hereof to secure payment of the aforesaid Note, with interest as provided therein, and obligation whether the entire amount shall have been advanced to the Borrower at the date hereof or at a later date, and to secure any other amount or amounts that may be added to the trust deed indebtedness under the terms of this instrument (all of which are collectively referred to herein as the "Secured Indebtedness"), the entire Secured Indebtedness being equally secured with and having the same priority as any amounts advanced at the date hereof.
- (2) **Payment of Secured Indebtedness.** Borrower shall pay to Lender the Secured Indebtedness with interest thereon as the Note and this trust deed provide.
- (3) **Payment of Insurance, Taxes.** Borrower shall pay, when due and payable, (a) all taxes, assessments, general or special, and other charges levied on, or assessed, placed or made against the Property, this instrument or the Secured Indebtedness or any interest of the Lender in the Property or the obligations secured thereby; (b) premiums on policies of fire, liability and other hazard insurance covering the Property, as required in paragraph (7) herein; (c) premiums on all collaterally pledged life insurance; and (d) ground rents or other month-to-month rentals, if any, payable by Borrower. Borrower shall promptly deliver to Lender receipts showing payment in full of all of the above items.
- (4) **Uses.** Borrower shall not use said Property for any unlawful purpose and shall comply with all laws, regulations, restrictions and conditions affecting said Property. Borrower further shall complete all buildings in the course of construction or to be constructed, within n/a days from the date hereof, unless otherwise agreed in writing by the Lender.
- (5) **Security Agreement.** It is hereby agreed that if any of the property secured hereby is of a nature so that a security interest therein can be perfected under the Uniform Commercial Code, Borrower grants to Lender a security interest therein, and this instrument shall constitute a Security Agreement and Borrower agrees to join with the Lender in the prompt execution of any financing statements and to execute any other instruments that may be required for the perfection or renewal of such security interest under the Uniform Commercial Code.

- (6) **Warranty.** Borrower warrants that Borrower has good, absolute and marketable title to the Property and is lawfully seized and possessed of the Property and has the right and authority to give security upon all Property; that the Property is unencumbered except as is expressly provided in this trust deed; and that Borrower will forever warrant and defend the title to the Property unto Lender against the claims of all persons whomsoever. Borrower warrants that the proceeds of the loan represented by the above described Note and this trust deed are for an organization, or (even if Borrower is a natural person) are for business or commercial purposes other than agricultural purposes. Borrower warrants that the property will not be occupied by Borrower, Borrower's spouse or Borrower's child as the primary residence of such person and that this trust deed is a commercial trust deed as defined in ORS 86.770(4).

- (7) **Insurance.** Borrower shall keep the improvements now existing and hereafter placed or erected in or on the property continually insured against physical loss on an all-risk basis including but not limited to the perils of fire, lightning, extended coverages, vandalism and malicious mischief, and special form endorsement, and for such other perils as Lender shall require and in such amounts and for such periods as Lender shall require, but always in a sum not less than the full insurable replacement value thereof. In addition Borrower shall provide and insure for public liability as relates to said property and improvements on a comprehensive general liability basis with combined single limits of no less than \$ 64,500.00 with Lender named as additional insured.

The insurance carrier providing the insurance shall be chosen by Borrower subject to approval by Lender, provided that such approval shall not be unreasonably withheld. All premiums on insurance policies shall be paid by Borrower making payment, when due, directly to the insurance carrier unless payments are to be made to a reserve account and to be held by Lender. A receipt evidencing any payment to the insurance carrier shall be sent forthwith to Lender by Borrower.

All insurance policies and renewals thereof shall be in form acceptable to Lender and shall include a standard mortgage clause in favor of and in form acceptable to Lender. Lender shall have the right to hold the policies and renewals thereof, and Borrower shall promptly furnish to Lender all renewal notices and all receipts of paid premiums. In the event of loss, Borrower shall give written notice within ten (10) days to the insurance carrier and Lender, and Lender may make proof of loss if not made promptly by Borrower.

At the option of Lender, and after deduction of late charges, collection costs, attorneys' fees and other costs, if any, insurance proceeds may be applied to restoration or repair of the Property damaged, provided that the Lender determines that such restoration or repair is economically feasible and if the security of this trust deed is not thereby impaired. If Lender determines that such restoration or repair is not economically feasible or if the security of this trust deed would be impaired, the insurance proceeds shall be applied to the sums secured by this trust deed, with the excess, if any, paid to Borrower. If the Property is abandoned by Borrower or if Borrower fails to respond to Lender within thirty (30) days after notice by Lender to Borrower that the insurance carrier offers to settle a claim for insurance benefits, Lender is authorized to collect and apply the insurance proceeds at Lender's option either to restoration or repair of the Property or to the sums secured by this trust deed.

Unless Lender and Borrower otherwise agree in writing, any such application of proceeds to principal shall not extend or postpone the due date of the monthly installments contained in the aforementioned Note or change the amount of such installments.

In the event that it becomes necessary for Lender to make application or take action to collect such insurance proceeds, then such collection costs, inspection fees, and Lender's reasonable attorney fees shall be added to Borrower's principal balance.

If under paragraph (17) hereof, the Property is acquired by Lender, all right, title and interest of Borrower in and to any insurance policies and in and to the proceeds thereof (to the extent of the sums secured by this trust deed immediately prior to such sale or acquisition) resulting from damage to the Property prior to the sale or acquisition shall pass to Lender.

Lender is hereby irrevocably appointed attorney-in-fact for Borrower to make proof of loss or damage under said policies, and adjust, sue for, or compromise any claim thereunder, to collect all proceeds therefrom, and, at its option, apply any insurance proceeds to the indebtedness hereby secured and all other sums due hereunder or to rebuilding or restoring the Property, but any such application or payment shall not cure or waive any default hereunder or invalidate any acts of Lender taken upon any default.

- (8) **Transfer of Property.** No Borrower or successor Borrower shall permit the conveyance of all or part of the Property or any interest therein without first giving written notice and obtaining the written consent of the Lender. Such consent shall be contingent, at the Lender's option, on a successor Borrower (a) filling out and signing the Lender's financial statement, loan application and other related forms, and providing such other personal, financial and credit documentation and information as shall be required by the Lender, (b) agreeing to assume and pay this trust deed and the accompanying Note, (c) paying a reasonable transfer fee of not less than \$200 and (d) agreeing to increase the stated interest rate in the trust deed and the accompanying Note by an amount not to exceed two percent (2%) per annum, so long as the amount of interest then to be charged does not exceed the legal maximum. (See paragraph (18) herein.) Consent to transfer or convey is also subject to Lender's approval of successor Borrower's credit. Prior to the alteration, remodeling, addition or removal of any building, crops, land, timber or minerals, Borrower or successor Borrower must first give written notice and obtain the written consent of Lender. The covenants contained in this paragraph are specifically agreed to be material conditions of this trust deed and any breach thereof shall give the Lender the right to exercise any remedy provided by this trust deed, the accompanying Note or otherwise provided by law. Any allowed transfer shall not operate to relieve or modify the obligation of any Borrower or successor Borrower to this trust deed.

- (9) **Acceleration on Transfer and Assignment of Trust Deed.** If Borrower shall sell, transfer, encumber, convey or alienate the Property, or any part thereof, or any interest therein, or shall be divested of its title or any interest therein in any manner, whether voluntarily or involuntarily, without the prior written consent of the Lender, or if default is made in the payment of any principal or interest payable under the secured Note or in the performance of the covenants or agreements hereof, or any of them, the Lender shall have the right, at its option, to declare any indebtedness or obligations secured hereby, irrespective of the maturity date specified in the Note evidencing the same, immediately due and payable, whether or not any default exists; this covenant shall run with said land and remain in full force and effect until said indebtedness and all other sums due hereunder is liquidated and the Lender may, without notice to the Borrower, deal with such new owner or owners with reference to the debt secured hereby in the same manner as with the Borrower, without in any way altering or discharging the Borrower's liability hereunder upon the indebtedness hereby secured.

If Lender exercises such option to accelerate, Lender shall mail Borrower notice of the acceleration in accordance with other provisions hereof. Such notice shall provide a period of not less than ten (10) days from the date the notice is mailed within which Borrower may pay the sums declared due. If Borrower fails to pay such sums prior to the expiration of such period, Lender may, without further notice or demand on Borrower, invoke any remedies permitted by this trust deed.

Upon an assignment or transfer of this trust deed, Lender shall have the right to pay over the balance of any deposits in its possession to the assignee and Lender shall thereupon be completely released from all liability with respect to such deposits and Borrower shall look solely to the assignee or transferee with respect thereto. Any assignment or transfer by Borrower must be made in full compliance with the provisions of paragraph (8) herein. The assignee must agree in writing to honor all terms and conditions of this trust deed and the Note and the Construction Loan Agreement, if any. This provision shall apply to every transfer of such deposits to a new assignee. Upon full payment of the trust deed indebtedness and interest (or at any prior time at the election of the then holder of this trust deed), the balance of the deposits in its possession shall be paid over to the record owner of the premises at the time of payment and no other party shall have any right or claim thereto in any event.

- (10) **After Acquired Property.** All right, title and interest of the Borrower in and to all extensions, improvements, and all additions and appurtenances to the Property hereafter acquired by the Borrower or constructed, assembled, placed, or caused to be so constructed, assembled or placed by the Borrower on the premises, and all conversions of the security constituted thereby, immediately upon such acquisition, release, construction, assembling, placement or conversions, as the case may be, and in each such case, without any further trust deed, mortgage, conveyance, assignment or other act by the Borrower, shall become subject to the lien of this trust deed as fully and completely, and with the same effect, as though now owned by the Borrower and specifically described in the granting clause hereof, but at any and all times the Borrower will execute and deliver to the Lender any and all such further assurances, trust deeds, mortgages, conveyances, or assignments thereof as Lender may reasonably require for the purpose of expressly and specifically subjecting the same to the lien of this trust deed.

Paragraph (8), (9), and (10), entitled **Transfer of Property, Acceleration on Transfer and Assignment of Trust Deed, and After Acquired Property**, are hereby acknowledged as having been read and agreed to:

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- (11) **Repair, Waste.** Borrower shall maintain the Property in good condition and repair and shall not commit or suffer any waste to the Property. Borrower shall promptly repair, restore, replace or rebuild any part of the Property now or hereafter encumbered by this trust deed which may be affected by any proceeding of the character referred to in paragraph (12) herein. No part of the Property, including, but not limited to, any building, structure, parking lot, driveway, landscape scheme, timber or other ground improvement, equipment or other property now or hereafter subject to the security of this trust deed shall be removed, demolished or materially altered without the prior written consent of Lender. Borrower shall not initiate, join in or consent to any change in any private restrictive covenant, zoning ordinance or other public or private restrictions limiting or defining the uses which may be made of the Property or any part thereof. Lender and any persons authorized by Lender shall have the right to enter and inspect the Property at all reasonable times and access thereto shall be permitted for that purpose.

- (12) **Condemnation.** The proceeds and all sums paid or damages awarded by reason of any taking, condemnation or acquisition, direct or consequential, during the existence of this trust deed, whether or not by litigation, by any public authority, person or corporation, of title to or any interest in all or any part of the above-described real property are hereby assigned to the Lender.
- Notwithstanding any taking of any of the subject property by eminent domain, alteration of the grade of any street or other injury to, or decrease in value of the Property by any public or quasi-public authority or corporation, as determined by Lender, Borrower shall continue to pay the periodic payment on the Secured Indebtedness, and any reduction in the Secured Indebtedness resulting from the application by Lender of any award or payment for such Property, after payment of all late charges, collection costs, attorneys' fees and other related costs, as hereinafter set forth, shall be deemed to take effect only on the date of such receipt; and such award or payment may, at the option of Lender be retained and applied by Lender toward payment of the Secured Indebtedness, or be paid over, wholly or in part, to Borrower for the purpose of altering, restoring or rebuilding any part of the Property which may have been altered, damaged or destroyed as a result of any such taking, alteration of grade or other injury to the Property, or for any other purpose satisfactory to Lender, but Lender shall not be obligated to see to the application of any amount

paid over to Borrower. If, prior to the receipt by Lender of such award of payment, the Property shall have been sold on foreclosure of this trust deed, Lender shall have the right to receive such award or payment to the extent of any deficiency found to be due upon such sale, with legal interest thereon, whether or not a deficiency judgment on this trust deed shall have been sought or recovered or denied, and of the reasonable counsel fees, costs and disbursements incurred by Lender in connection with the collection of such award or payment.

- (13) **Release.** Without affecting the liability of any person, including Borrower (other than any person released pursuant hereto), for the payment of any indebtedness secured hereby, and without affecting the lien of this trust deed upon any property not released in pursuance hereof, Lender is authorized and empowered at any time and from time to time, either before or after the maturity of said Note and without notice to (a) release any person liable for the payment of any of the indebtedness; (b) make any agreement extending the time or otherwise altering the terms of payment of any of the indebtedness; (c) accept additional security therefor of any kind. At any time and from time to time upon written request of the Lender, payment of its fees and presentation of this deed and the Note for endorsement (in case of full reconveyances, for cancellation), without affecting the liability of any person for the payment of the indebtedness, trustee may (a) consent to the making of any map or plat of said property; (b) join in granting any easement or creating any restriction thereon; (c) join in any subordination or other agreement affecting this deed or the lien or charge thereof; (d) reconvey, without warranty, all or any part of the property. The grantee in any reconveyance may be described as the "person or persons legally entitled thereto," and the recitals therein of any matters or facts shall be conclusive proof of the truthfulness thereof. Trustee's fees for any of the services mentioned in this paragraph shall not be less than \$5.

- (14) **Additional Advances.** Upon the request of the Borrower, or its successors in ownership of the Property, the Lender may hereafter, at its option, at any time before full payment of the indebtedness secured hereby, make further and additional advances to the Borrower or said successors in ownership; and the same, with interest, late charges, collections costs, attorneys' fees and other related costs, shall be secured by this trust deed; provided that if the Lender, at its option, shall make a further advance or advances as aforesaid, the Borrower or said successors in ownership execute and deliver to the Lender a note and an agreement for additional advances to evidence the same, bearing such other terms as the Lender shall require.

- (15) **Defense of Actions.** Borrower shall defend, at its own expense and cost, and indemnify and hold the Lender harmless from, any action, proceeding, claim or any appeal thereof and all costs thereof affecting the Property, the Note or any other instrument securing payment of the Secured Indebtedness. Costs and expenses shall include, but not be limited to, reasonable attorneys' fees. If Borrower neglects or refuses to act pursuant to this paragraph, Lender shall have the option to declare the entire Secured Indebtedness due and payable and to pursue any and all other remedies for an event of default, and whether or not this option is exercised by Lender, Lender may pay all costs, expenses and reasonable attorneys' fees incurred in any such action, and Borrower agrees to promptly reimburse Lender for all such sums expended. All such payments, bearing interest thereon from the time of payment at the same rate as the Secured Indebtedness of this trust deed and the accompanying Note, shall be deemed a part of the Secured Indebtedness and shall be immediately due and payable by Borrower to Lender.

In any suit or action, or appeal therefrom, or private advertisement and sale to foreclose this trust deed or in any proceeding to enforce this obligation, Borrower agrees to pay the Lender all expenses, costs and a reasonable sum as attorneys' fees and the cost of searching records and evidencing title as may be incurred, as well as other costs and expenses of the trustee and trustee's fees. In the absence of any such suit or proceeding or sale and in case of default, Borrower agrees to pay all costs, including reasonable personnel time charges and delinquency charges as provided in the Note, said sums to bear interest at the rate specified in the Note until repaid, subject to the provisions of paragraph (18) herein.

- (16) **Events of Default.** Time is material and of the essence of this trust deed, the accompanying Note and the Construction Loan Agreement, if any. Any default of one agreement shall constitute a default of all agreements.

The Lender may immediately take any one or more of the actions specified in paragraph (17) herein upon the occurrence of any one but not limited to the following events (herein referred to as an "Event of Default"):

- (a) Borrower fails to pay the Secured Indebtedness with interest, or any part thereof, or the periodic payments for taxes, liens, other evidences of debt, insurance and other charges as herein provided when and as the same shall become due and payable;
- (b) Any warranty of Borrower herein contained, or contained in any instrument, document, transfer, conveyance, assignment or Construction Loan Agreement given with respect to the Secured Indebtedness, proves untrue or misleading in any material aspect;
- (c) The Property becomes subject to actual or threatened waste, or any part thereof is removed, demolished or materially altered so that the value of the Property is diminished;
- (d) Any tax lien or claim of lien for labor or material is filed of record against Borrower or the Property and is not removed by payment or bond within fifteen (15) days from date of recording, and Borrower shall furnish written notice of any such lien filed of record to Lender within such fifteen (15) day period;
- (e) Any claim of priority to this trust deed by title, lien or otherwise is asserted in any legal, administrative or equitable proceeding;
- (f) Borrower makes any assignment for the benefit of creditors, or a receiver, liquidator or trustee of Borrower, or of any of Borrower's property, is appointed, a court having jurisdiction in the premises shall enter a decree or order for relief of the Borrower in an involuntary case under applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of the Borrower or for any substantial part of its property, or ordering the winding up or liquidation of its affairs, and such decree or order shall remain unstayed and in effect for a period of sixty (60) consecutive days, or any petition for the bankruptcy, reorganization or arrangement of Borrower, pursuant to a bankruptcy statute or any similar statute is filed, or Borrower is adjudicated a bankrupt or insolvent, or Borrower, if a corporation, is liquidated or dissolved or its charter expire or be revoked, the Borrower shall commence a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or shall consent to the entry of an order for relief in any involuntary case under any such law, or shall consent to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator (or similar official) of the Borrower or for any substantial part of its property, or shall make any general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due or shall take any action in furtherance of any of the foregoing, or, if a partnership or business association, is dissolved or partitioned, or, if a trust, is terminated or expires;
- (g) Borrower fails to keep, observe, perform, carry out and execute in every particular the covenants, agreements, obligations and conditions set out in this trust deed or in the Note or the Construction Loan Agreement, if any, or any other instrument securing this loan or related thereto;
- (h) Foreclosure proceedings (whether judicial or otherwise) are instituted on any mortgage or any junior lien of any kind secured by any portion of the Property;
- (i) Borrower defaults in any other loan from Lender to Borrower;
- (j) Borrower fails to keep the Property free from all liens and other encumbrances.

- (17) **Remedies Upon an Event of Default.** Upon the occurrence of any of the events enumerated in paragraphs (15) and (16), the Lender may do any one or more of the following:

- (a) Enter upon and take possession of the Property without the appointment of a receiver, or an application therefor, employ a managing agent of the Property and let the same, either in its own name or in the name of the Borrower, collect and receive the rents, incomes, issues and profits of the Property and apply the same, after payment of necessary expenses, on account of the Secured Indebtedness without need of application to any court of competent jurisdiction. This covenant shall become effective immediately after the happening of any such default, regardless of whether or not an action has been brought to foreclose this trust deed, or whether or not a receiver has been appointed. In the event of such default, Borrower consents forthwith to deliver possession on demand to Lender and further agrees that the collection of rents by Lender constitutes a taking of possession.
- (b) Pay any sums in any form or manner deemed expedient by Lender to protect the security of this instrument or to cure any event of default other than payment of interest or principal on the Secured Indebtedness; make any payment thereby authorized to be made according to any bill, statement or estimate furnished or procured from the appropriate public officer or the party claiming payment without inquiry into the accuracy or validity thereof, and the receipt of any such public officer or party in the hands of Lender shall be conclusive evidence of the validity and amount of items so paid, in which event the amounts so paid, with interest thereon from the date of such payment at the rate of interest specified on the Note shall be added to and become a part of the Secured Indebtedness and be immediately due and payable to Lender, and Lender shall be subrogated to any encumbrance, lien, claim or demand, and to all the rights and securities for the payment thereof, paid or discharged with the principal sum secured hereby or by Lender under the provisions hereof, and any such subrogation rights shall be additional and cumulative security to this instrument;
- (c) Declare the Note and the whole indebtedness secured by this trust deed, including all payments for taxes, assessments, insurance premiums, liens, costs, expenses and attorneys' fees herein specified, without notice to Borrower (such notice being hereby expressly waived), to be due and collectible at once, by foreclosure or otherwise;
- (d) Pursue any and all remedies available under the Uniform Commercial Code, Oregon Revised Statutes, Chapter 79, it being hereby agreed that fifteen (15) days' notice as to time and place of any sale shall be reasonable;
- (e) Surrender any or all of the insurance policies maintained pursuant to this trust deed, and receive and apply the unearned premiums and deposits, if any, as a credit on the Secured Indebtedness, and, in connection therewith, Borrower hereby appoints Lender as the agent and attorney-in-fact for Borrower to collect such premiums;
- (f)
  - (i) Foreclose this trust deed in equity as a mortgage without notice and obtain a decree to sell the Property or any part or parts thereof, in the manner prescribed by law, at which sale any person, including the Borrower or Lender, may purchase, and out of the monies arising from such sale, after repaying all costs, fees and expenses of Lender and of this trust deed, including costs of collection and evidencing title in connection with the foreclosure and sale, the proceeds of such sale shall be applied to the payment of: all sums, expended under the terms hereof, not then repaid, with accrued interest at the rate of interest specified on the Note, all other sums then secured hereby, and the remainder, if any, to the person or persons legally entitled thereto;
  - (ii) Direct the trustee to foreclose this trust deed by advertisement and sale.
    - (A) In the latter event, the beneficiary or the trustee shall execute and cause to be recorded his written notice of default and his election to sell the

said described real property to satisfy the obligations secured hereby, whereupon the trustee shall fix the time and place of sale, give notice thereof as then required by law and proceed to foreclose this trust deed in the manner provided in ORS 86.740 to 86.795.

(B) Should the beneficiary elect to foreclose by advertisement and sale then after default at any time prior to five days before the date set by the trustee for the trustee's sale, the grantor or other person so privileged by ORS 86.760, may pay to the beneficiary or his successors in interest, respectively, the entire amount then due under the terms of the trust deed and the obligation secured thereby (including costs and expenses actually incurred in enforcing the terms of the obligation and trustee's and attorneys' fees not exceeding the amounts provided by law) other than such portion of the principal as would not then be due had not default occurred, and thereby cure the default, in which event all foreclosure proceedings shall be dismissed by the trustee.

(C) Otherwise, the sale shall be held on the date and at the time and place designated in the notice of sale or the time to which said sale may be postponed as provided by law. The trustee may sell said property either in one parcel or in separate parcels and shall sell the parcel or parcels at auction to the highest bidder for cash, payable at the time of sale. Trustee shall deliver to the purchaser its deed in form as required by law conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in the deed of any matters of fact shall be conclusive proof of the truthfulness thereof. Any person, excluding the trustee, but including the grantor and beneficiary, may purchase at the sale.

(D) When trustee sells pursuant to the powers provided herein, trustee shall apply the proceeds of sale to payment of (1) the expenses of sale, including the compensation of the trustee and a reasonable charge by trustee's attorney, (2) to the obligation secured by the trust deed, (3) to all persons having recorded liens subsequent to the interest of the trustee in the trust deed as their interests may appear in the order of their priority, and (4) the surplus, if any, to the Borrower or to his successor in interest entitled to such surplus.

(g) Take any and all other actions allowed by law, without limitation, in order to protect the indebtedness secured by this trust deed, the accompanying Note, the Construction Loan Agreement, if any, and the commitment, if any.

(18) **Maximum Limit.** In no event shall any payment of interest or any other sum payable hereunder exceed the maximum amount permitted by applicable law. If it is established that any payment exceeding the lawful limits has been received, the excess amount will be credited to principal, or, at the Lender's option, be refunded to the Borrower.

(19) **Modification.** This trust deed may not be changed or modified orally. It may be modified only by an agreement in writing, signed by all of the parties hereto.

(20) **Waiver by Lender.** Any waiver by Lender of any provision of this Agreement shall be in writing and shall be effective only to the extent specifically set forth in such writing. No waiver of any provision of this Agreement, and no acquiescence in, or waiver of, any default by Borrower, shall constitute a waiver of any other provision, an acquiescence in or waiver of, any default whether the same as, or different from, said default and whether past or future.

(21) **Notice.** Any notice to the Borrower shall be given by mailing such notice by United States mail, postage prepaid, addressed to the Borrower at the address stated below, or to such other address as the Borrower shall designate by written notice to the Lender. Any notice to the Lender shall be given by mailing such notice by certified mail, return receipt requested, to the Lender at the address stated in this trust deed or at such other address as may have been designated by notice in writing to the Borrower.

Borrower's Initial Notice Address: P. O. Box 103, Bonanza, Oregon 97623

(22) **Severability.** The invalidity of any one or more covenants, phrases, clauses, paragraphs, sentences or words of this trust deed shall not affect the validity of the remaining portions of this trust deed or any part thereof, and this trust deed shall be construed as if such invalid covenants, phrases, clauses, paragraphs, sentences or words, if any, had not been inserted herein, and shall not be affected thereby, but instead shall be enforced to the maximum extent permitted by law.

(23) **Binding Obligation.** This trust deed and the Note secured hereby, and Construction Loan Agreement, if any, shall inure to and bind the legal representatives, heirs, successors and assigns of the parties hereto.

(24) **Joint and Several Obligation.** Should this trust deed be signed by more than one person, firm or corporation, all of the obligations herein contained shall be considered joint, several and personal obligations of each signer hereof, and if by a corporation, pursuant to the authority of its board of directors, and evidence of such authority by resolution of its board be provided to Lender.

(25) **Choice of Law.** This trust deed and the Note secured hereby shall be construed and interpreted according to the laws of the State of Oregon.

(26) **Singular, Masculine.** In this trust deed, the singular shall include the plural, and the masculine shall include the feminine and neuter genders. The words "Borrower" and "Lender" whenever used herein shall include all cosigners, all guarantors, all individuals, corporations (and if a corporation, its officers, employees or agents) and any and all other persons or entities, and the respective heirs, executors, administrators, legal representatives, successors and assigns of the parties hereto, and all those holding under either of them.

(27) **Headings.** The paragraph headings herein have been inserted for convenience or reference only and shall in no way modify or restrict any of the terms or provisions hereof.

(28) **Rights Cumulative.** The rights of the Lender granted and arising under the clauses and covenants contained in this trust deed and the Note secured hereby or any other instrument securing this loan shall be separate, distinct and cumulative of other powers and rights herein granted and all other rights which Lender may have in law or equity, and none of them shall be in exclusion of the others, and all of them are cumulative to the remedies for collection of indebtedness, enforcement of rights under mortgages, and preservation of security as provided at law. No act of Lender shall be construed as an election to proceed under any one provision herein or under the Note to the exclusion of any other provision, or an election of remedy allowed at law or in equity, anything herein or otherwise to the contrary notwithstanding.

(29) **Homestead Exemption Rights.** Borrower, for himself and family, hereby waives and renounces all homestead exemption rights, if any, provided for by the Constitution and Laws of the United States or the State of Oregon in and to the Property as against the collection of the Secured Indebtedness, or any part thereof; and Borrower agrees that where, by the terms of the conveyance or the Note secured hereby, a day is named or a time fixed for the payment of any sum of money or the performance of any agreement, the time stated enters into the consideration and is material and of the essence of the whole agreement between the parties hereto.

(30) **Successor Trustee.** For any reason permitted by law beneficiary may from time to time appoint a successor or successors to any trustee named herein or to any successor trustee appointed hereunder. Upon such appointment, and without conveyance to the successor trustee, the latter shall be vested with all title, powers and duties conferred upon any trustee herein named or appointed hereunder. Each such appointment and substitution shall be made by written instrument executed by beneficiary, containing reference to this trust deed and its place of record, which, when recorded in the office of the County Clerk or Recorder of the county or counties in which the property is situated, shall be conclusive proof of proper appointment of the successor trustee.

(31) **Trustee's Acceptance.** Trustee accepts this trust when this deed, duly executed and acknowledged is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other deed of trust or of any action or proceeding in which grantor, beneficiary or trustee shall be a party unless such action or proceeding is brought by trustee.

IN WITNESS WHEREOF, the Borrower has executed this trust deed as of the day and year first hereinabove written.

CORPORATE BORROWER:

STATE OF OREGON,  
County of Klamath

for record at request of

this 14th day of Sept. A.D. 19 83

2:45 o'clock P. M, and duly

recorded in Vol. M 83 of Mortgages

at 15884

EVELYN BIEHN, County Clerk

By Patricia L. Garrison, Deputy

Fee \$20.00

BORROWER:

Dan N. McDonald  
Individually Dan N. McDonald

Kathleen L. McDonald  
Individually Kathleen L. McDonald

Individually

Individually

STATE OF OREGON

Personally appeared the above named DAN N. MCDONALD & KATHLEEN L. MCDONALD  
and acknowledged the foregoing instrument to be their voluntary act.

Before me:

Patricia L. Garrison  
Notary Public for Oregon

My commission expires: 6/19/87