

ASSIGNMENT AND MORTGAGE

DATE: November 28, 1983

PARTIES: DURWARD E. FIELDS, aka DURWOOD E. FIELDS, and  
 MARTHAEL A. FIELDS, husband and wife  
 Star Rte. 2, Box 894-A  
 Sprague River, OR 97639

## Assignors-Mortgagors

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 Assignors-Mortgagors desire to borrow funds from the Assignee-Mortgagee and to grant to Assignee-Mortgagee on interest in a land sale contract hereinafter described as security for the repayment of said funds.

B. In consideration of the above-mentioned loan, Assignors-Mortgagors grant to Assignee-Mortgagee this Assignment and Mortgage as security for said loan and to define the rights and liabilities of the parties hereto.

## AGREEMENTS:

SECTION 1. ASSIGNMENT:

1.1 For value received by Assignors from Assignee, Assignors hereby grant, bargain, sell and convey to Assignee, its successors and assigns, all of Assignor's right, title and interest in the following interest in real property:

The Sellers' interest in a certain Land Sale Contract dated the 7th day of September, 1978 wherein Durward E. Fields, who took title as Durwood E. Fields, and Marthael A. Fields, husband and wife as Sellers and Michael J. Sauer and Sylvia A. Sauer, husband and wife as Buyers. A Memorandum of Contract for Deed was recorded in Volume M-78 page 20072 on the 11th day of September, 1978 in Deed records of Klamath County, Oregon.

1.2. The Assignors warrant that the amount of \$ 50,367.19 is now due to them under the encumbrance and that the Assignors will not accept any prepayments or pay-offs upon said encumbrance without applying the excess proceeds to the obligation of the Assignee herein.

1.3 The Assignors appoint the Assignee their 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 Assignors herein without prejudice to the other rights of the Assignee herein.

SECTION 2. CONVEYANCE:

For value received by Mortgagors from Mortgagee, Mortgagors hereby mortgage, grant, bargain, sell and convey to Mortgagee, its successors and assigns, the following described

## 1. ASSIGNMENT AND MORTGAGE

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real property, situated in the County of Klamath, State of Oregon,  
to-wit:

The NW $\frac{1}{4}$ SW $\frac{1}{4}$ , Section 1, Township 37 South, Range 11 East  
of the Willamette Meridian;

TOGETHER WITH a 1972 Vilaw 20, Serial No. S20216,  
Class 053 1, Title No. 721 532 1011.

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".

### SECTION 3. PURPOSE:

This conveyance is intended as a mortgage to secure  
performance of the covenants and agreements herein contained and  
contained in any loan agreement, security agreement or other  
agreement between Mortgagors and Mortgagee, and to secure the  
payment of a loan or loans in the sum of Twenty-Five Thousand and  
No/100ths (\$25,000.00) DOLLARS as evidenced by a promissory note  
or notes ~~and Extension Agreement~~ dated 11-28-83 held *D.E.F.*  
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. *mf*

### SECTION 4. WARRANTY OF TITLE:

At the time of execution and delivery of this Mortgage,  
Mortgagors are the owners of the Mortgaged Premises in fee simple.  
Mortgagors have 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. Mortgagors will  
defend Mortgagee's rights against any liens and encumbrances other  
than those listed in this Mortgage.

### SECTION 5. PAYMENT AND PERFORMANCE:

Mortgagors will pay, when due, the indebtedness secured  
by this Mortgage in accordance with the terms thereof. Mortgagors  
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. Mortgagors 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 its use.

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

Mortgagors hereby assign 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 Mortgagors, 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. The Mortgagors, by this Agreement, grant to the  
Mortgagee full power of attorney to sign their name upon any  
escrow instructions which the Mortgagee deems necessary or  
advisable to perfect its interest in the collateral above  
described.

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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) 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 Mortgagors and Mortgagee;

(d) Mortgagor's insolvency or inability to pay their 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 Mortgagors 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 Mortgagors and Mortgagee, and foreclosure proceedings may be immediately commenced. The failure of 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, Mortgagors 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. Mortgagors 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. Mortgagors 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

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these sums and interest in like manner and effect as for payment of the indebtedness secured.

#### 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 Mortgagors 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 laws.

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

ASSIGNOR-MORTGAGOR

Durward E. Fields

Marthael A. Fields

STATE OF OREGON

County of Klamath

November 29th, 1983

Personally appeared the above-named Durward E. Fields who took title as Durward E. Fields and Marthael A. Fields, husband and wife, and acknowledged the foregoing instrument to be their voluntary act. Before me:

RETURN:

SOUTH VALLEY ST. BANK  
5215 So 6th  
KFO

Judith Chudister  
Notary Public for Oregon  
My Commission expires: 10-17-87

STATE OF OREGON, )  
County of Klamath )  
Filed for record at request of

on this 30 day of Nov. A.D. 19 83  
at 8:42 o'clock A M, and duly  
recorded in Vol. M83 of Mortgages  
Page 20480

EVELYN BIEHN, County Clerk

By Sam Smith Deputy

Fee 16.00

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