

## ASSIGNMENT AND MORTGAGE

For value received, HARRY R. WAGGONER and NORMA E. WAGGONER ("Assignor"), assign and convey the following described property ("Collateral") and grant a security interest therein to FIRST INTERSTATE BANK OF OREGON, N.A. ("Bank"), its successors and assigns: all Assignor's right, title and interest in and to that certain Agreement of Sale dated April 26, 1979, which Agreement of Sale was recorded by Memorandum of Agreement dated April 26, 1979 in Volume 79 at page 9547, Recorder's No. 66289, records of Klamath County, Oregon, between Assignor, as Seller, and Ore-Cal General Wholesale, Inc., Eric C. Lewis, Beverly Lewis, Robert G. Conner and Alice L. Conner, as Purchasers, covering certain real property located in Klamath County, Oregon, and more particularly described in Exhibit A attached hereto and incorporated herein by this reference. This conveyance is intended as a mortgage to secure performance of the covenants and agreements herein contained and to be by the Assignor kept and performed. "Obligor" shall mean the account debtor, lessee, contract purchaser, any escrow agent collecting payments made pursuant to Collateral or holding documents pursuant to or for the payment of money, as the case may be. Where reference is made to "Assignment" it shall, where applicable, mean "Assignment and Mortgage."

Assignor warrants to Bank that:

- lateral;
- (a) Assignor is the absolute owner of Collateral;
- (b) Assignor has not heretofore assigned or granted a security interest in Collateral or any sums of money due or to become due thereunder, or any right or interest therein or thereto;
- (c) there are no defaults existing under Collateral;
- (d) there are no offsets or counterclaims to Collateral;
- (e) as of the date of this assignment there is now unpaid and owing thereon \$ 139,929.94.

Assignor covenants to Bank that he will strictly and promptly perform each of the terms, conditions, covenants, and agreements contained in Collateral on his part to be performed.

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This assignment is made as security for the payment of Assignor's promissory note to Bank dated January 10, 1984 in the principal sum of \$190,000.00, together with interest thereon in accordance with its terms and tenor, and together with any renewals or extensions thereof; and as security for the payment of any and all indebtedness now or at any time hereafter owing by Assignor to Bank, whether absolute, contingent, due or to become due, primary or secondary, and however evidenced. The maturity date of the note is January 15, 1987.

Assignor hereby authorizes and directs Obligor to pay and deliver to Bank, upon Bank's demand to Obligor, all sums of money payable by the terms of Collateral and to accept the receipt of Bank therefor. Until Bank makes demand on Obligor, Assignor shall continue to collect the proceeds of Collateral. Assignor shall, at the request of Bank, hold the proceeds received from collection in trust for Bank without commingling the same with other funds of Assignor and shall turn the same over to Bank immediately upon receipt in the identical form received. Assignor shall, at the request of Bank, notify Obligor of Bank's interest in Collateral and Bank may, itself, at any time so notify Obligor. Obligor shall be under no obligation to determine that any indebtedness hereby secured is owing or to see to the application of any sums of money paid to Bank and the receipt of Bank shall constitute a complete acquittance to the extent of any payment made to Bank by Obligor until Bank shall notify Obligor in writing that Assignor is no longer indebted to Bank.

It is expressly understood and agreed that Bank shall not be required or obligated in any manner to make any demand or to take any action to collect or enforce the payment of any amount which may have been assigned to it or to which it may have been entitled hereunder at any time or times.

This assignment is not a delegation or assignment to Bank of Assignor's duties or obligations under or in connection with Collateral. Bank's acceptance of this assignment does not constitute a promise by it nor does it in any way obligate it to perform any of Assignor's duties or obligations under or in connection with Collateral.

Assignor hereby appoints Bank, its successors and assigns, his attorney in fact, irrevocably, with full power of substitution, to demand, collect, receive, receipt for, sue and recover all sums of money which may now or hereafter become due, owing, or payable from Obligor in

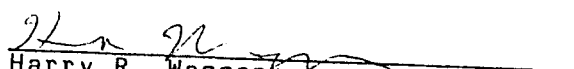
accordance with the terms of Collateral; to execute, sign and endorse any and all claims, instruments, receipts, checks, drafts, or warrants issued in payment therefor and to settle or compromise any and all claims arising under Collateral assigned to Bank and, in the place and stead of Assignor, execute and deliver its release and acquittance therefor; to file any claim or claims or to take any action or institute or take part in any proceedings, either in its own name or in the name of Assignor, or otherwise, which, in the discretion of Bank may seem to be necessary or advisable; to execute in Assignor's name and deliver to Obligor on Assignor's behalf, at the time and in the manner specified by Collateral, a deed or bill of sale to property being purchased by Obligor pursuant to Collateral and described therein. This power is given as security for an indebtedness and the authority hereby conferred is and shall be irrevocable and shall remain in full force and effect until renounced by Bank.

Assignor shall pay to Bank upon demand, any and all expenses, including reasonable attorney fees, incurred or paid by Bank without suit or action in protecting its rights upon or under this assignment. In the event suit or action is instituted in connection with any controversy between Assignor and Bank arising out of this assignment, the prevailing party shall be entitled to recover, at trial or on appeal, such sums as the court may adjudge reasonable as attorney fees, in addition to costs and necessary disbursements. Moreover, Assignor shall pay to Bank upon demand, any and all expenses including reasonable attorney fees, incurred or paid by Bank with or without any suit or action in protecting its rights as against any third party upon or under this assignment.

Assignor agrees that at any time or from time to time, upon written request of Bank, he will execute and deliver such further documents and do such further acts and things as Bank may request in order to further effect the purposes of this Assignment and Mortgage.

In the construction of this agreement, the singular includes the plural and the masculine pronoun includes the feminine and neuter.

IN WITNESS WHEREOF, Assignor has executed this assignment and mortgage the 10th day of January, 1984.

  
Harry R. Waggoner

  
Norma E. Waggoner

STATE OF OREGON           )  
                                  : ss  
County of Klamath        )

The foregoing instrument as acknowledged before  
me the 10th day of January, 1984 by Harry R.  
Waggoner and Norma E. Waggoner.



(NOTARIAL SEAL)

Clara C. Wells  
Notary Public for Oregon

My Commission expires:

April 8, 1984

Lot 7, Block 34, ORIGINAL TOWN OF KLAMATH FALLS  
(formerly Linkville), Oregon, EXCEPT 20 feet off the  
southeasterly end of said Lot used as an alley.  
SUBJECT TO: (1) Charges and assessments of the  
City of Klamath Falls for monthly water and/or sewer  
service. (2) Easement, including the terms and  
provisions thereof, for the right, privilege and  
perpetual use of the party wall, as set forth and  
contained in deed from Harry R. Waggoner, et ux,  
to John D. Merryman, et ux, dated May 2, 1960,  
recorded May 5, 1960, in Deed Volume 321, Page 19,  
records of Klamath County, Oregon. (3) Improvement  
Lien No. 257 of the City of Klamath Falls, Oregon,  
docketed January 27, 1976, City Lien Docket Card No. 6.

First Interstate Bank of Oregon  
P. O. Box 608  
Klamath Falls, Oregon 97601

After Recording Return to:

## EXHIBIT A

STATE OF OREGON: COUNTY OF KLAMATH:ss  
I hereby certify that the within instrument was received and filed for  
record on the 16th day of February A.D., 1984 at 2:58 o'clock P. M.  
and duly recorded in Vol M84, of Mortgages on page 2501.

EVELYN BIEHN, COUNTY CLERK

by Pam Smith Deputy

Fee \$ 20.00