

35083

## TRUST DEED

Vol. 1884 Page 5324

THIS TRUST DEED, made this 30 day of March, 19 84, between JAMES E. MCCOBB, P. C., TRUST ACCOUNT

as Grantor, William L. Sisemore

, as Trustee, and

CERTIFIED MORTGAGE COMPANY, an Oregon Coproration

as Beneficiary,

## WITNESSETH:

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

see attached legal description

together with all and singular the tenements, hereditaments and appurtenances and all other rights thereunto belonging or in anywise now or hereafter appertaining, and the rents, issues and profits thereof and all fixtures now or hereafter attached to or used in connection with said real estate.

FOR THE PURPOSE OF SECURING PERFORMANCE of each agreement of grantor herein contained and payment of the sum of TEN THOUSAND DOLLARS AND NO/100—

Dollars, with interest thereon according to the terms of a promissory note of even date herewith, payable to beneficiary or order and made by grantor, the final payment of principal and interest hereof, if not sooner paid, to be due and payable March 30, 19 87

The date of maturity of the debt secured by this instrument is the date, stated above, on which the final installment of said note becomes due and payable. In the event the within described property, or any part thereof, or any interest therein is sold, agreed to be sold, conveyed, assigned or alienated by the grantor without first having obtained the written consent or approval of the beneficiary, then, at the beneficiary's option, all obligations secured by this instrument, irrespective of the maturity dates expressed therein, or herein, shall become immediately due and payable.

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

To protect the security of this trust deed, grantor agrees:

1. To protect, preserve and maintain said property in good condition and repair; not to remove or demolish any building or improvement thereon; not to commit or permit any waste of said property.

2. To complete or restore promptly and in good and workmanlike manner any building or improvement which may be constructed, damaged or destroyed thereon, and pay when due all costs incurred therefor.

3. To comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting said property; if the beneficiary so requests, join in executing such financing statements such taxes to the Uniform Commercial Code as the beneficiary may require and to pay for filing same in the proper public office or offices, as well as the cost of all lien searches made by filing officers or searching agencies as may be deemed desirable by the beneficiary.

4. To provide and continuously maintain insurance on the buildings now or hereafter erected on the said premises against loss or damage by fire and such other hazards as the beneficiary may from time to time require, in an amount not less than \$ full value, written in companies acceptable to the beneficiary, with loss payable to the latter; all policies of insurance shall be delivered to the beneficiary as soon as insured; if the grantor shall fail for any reason to procure any such insurance and to deliver said policies to the beneficiary at least fifteen days prior to the expiration of any policy of insurance now or hereafter placed on said buildings, the beneficiary may procure the same at grantor's expense. The amount collected under any fire or other insurance policy may be applied by beneficiary upon any indebtedness secured hereby and in such order as beneficiary may determine, or at option of beneficiary the entire amount so collected, or any part thereof, may be released to grantor. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

5. To keep said premises free from construction liens and to pay all taxes, assessments and other charges that may be levied or assessed upon or against said property before any part of the assessments and other charges become past due or delinquent and promptly deliver receipts therefor to beneficiary; should the grantor fail to make payment of any taxes, assessments, insurance premiums, liens or other charges payable by grantor, either by direct payment or by providing beneficiary with funds with which to make such payment, beneficiary may, at its option, make payment thereof, and the amount so paid, with interest at the rate set forth in the note secured hereby, together with the obligations described in paragraphs 6 and 7 of this trust deed, shall be added to and become a part of the debt secured by this trust deed, without waiver of any rights arising from breach of any of the covenants hereof and for such payments, with interest as aforesaid, the property hereinafter described, as well as the grantor, shall be bound to the same extent that they are bound for the payment of the obligations herein described, and all such payments shall be immediately due and payable without notice, and the nonpayment thereof shall, at the option of the beneficiary, render all sums secured by this trust deed immediately due and payable and constitute a breach of this trust deed.

6. To pay all costs, fees and expenses of this trust including the cost of title search as well as the other costs and expenses of the trustee incurred in connection with or in enforcing this obligation and trustee's and attorney's fees actually incurred.

7. To appear in and defend any action or proceeding purporting to affect the security rights or powers of beneficiary or trustee; and in any suit, action or proceeding in which the beneficiary or trustee may appear, including any suit for the foreclosure of this deed, to pay all costs and expenses, including evidence of title and the beneficiary's or trustee's attorney's fees; the amount of attorney's fees mentioned in this paragraph 7 in all cases shall be fixed by the trial court and in the event of an appeal from any judgment or decree of the trial court, grantor further agrees to pay such sum as the appellate court shall adjudge reasonable as the beneficiary's or trustee's attorney's fees on such appeal.

It is mutually agreed that:

8. In the event that any portion or all of said property shall be taken under the right of eminent domain or condemnation, beneficiary shall have the right, if it so elects, to require that all or any portion of the monies payable as compensation for such taking, which are in excess of the amount required to pay all reasonable costs, expenses and attorney's fees necessarily paid or incurred by grantor in such proceedings, shall be paid to beneficiary and applied by it first upon any reasonable costs and expenses and attorney's fees, both in the trial and appellate courts, necessarily paid or incurred by beneficiary in such proceedings, and the balance applied upon the indebtedness secured hereby; and grantor agrees, at its own expense, to take such actions and execute such instruments as shall be necessary in obtaining such compensation, promptly upon beneficiary's request.

9. At any time and from time to time upon written request of beneficiary, 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 thereon; (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 be not less than \$5.

10. Upon any default by grantor hereunder, beneficiary may at any time without notice, either in person, by agent or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said property or any part thereof, in its own name sue or otherwise collect the rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of collection, including reasonable attorney's fees upon any indebtedness secured hereby, and in such order as beneficiary may determine.

11. The entering upon and taking possession of said property, the collection of such rents, issues and profits, or the proceeds of fire and other insurance policies or compensation or awards for any taking or damage of the property, and the application or release thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

12. Upon default by grantor in payment of any indebtedness secured hereby or in his performance of any agreement hereunder, the beneficiary may declare all sums secured hereby immediately due and payable. In such an event the beneficiary at his election may proceed to foreclose this trust deed in equity as a mortgage or direct the trustee to foreclose this trust deed by advertisement and sale. 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.

13. 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 attorney's fees not exceeding the amounts provided by law) other than such portion of the principal as would not then be due had no default occurred, and thereby cure the default, in which event all foreclosure proceedings shall be dismissed by the trustee.

14. 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.

15. 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 grantor or to his successor in interest entitled to such surplus.

16. 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.

17. 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.

NOTE: The Trust Deed Act provides that the trustee hereunder must be either an attorney, who is an active member of the Oregon State Bar, a bank, trust company or savings and loan association authorized to do business under the laws of Oregon or the United States, a title insurance company authorized to insure title to real property of this state, its subsidiaries, affiliates, agents or branches, the United States or any agency thereof, or an escrow agent licensed under ORS 696.505 to 696.585.

The grantor covenants and agrees to and with the beneficiary and those claiming under him, that he is lawfully seized in fee simple of said described real property and has a valid, unencumbered title thereto none

and that he will warrant and forever defend the same against all persons whomsoever.

The grantor warrants that the proceeds of the loan represented by the above described note and this trust deed are: (a) primarily for grantor's personal, family, household or agricultural purposes (see Important Notice below), (b) for an organization, or (even if grantor is a natural person) are for business or commercial purposes other than agricultural purposes.

This deed applies to, inures to the benefit of and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, personal representatives, successors and assigns. The term beneficiary shall mean the holder and owner, including pledgee, of the contract secured hereby, whether or not named as a beneficiary herein. In construing this deed and whenever the context so requires, the masculine gender includes the feminine and the neuter, and the singular number includes the plural.

IN WITNESS WHEREOF, said grantor has hereunto set his hand the day and year first above written.

\* IMPORTANT NOTICE: Delete, by lining out, whichever warranty (a) or (b) is not applicable; if warranty (a) is applicable and the beneficiary is a creditor as such word is defined in the Truth-in-Lending Act and Regulation Z, the beneficiary MUST comply with the Act and Regulation by making required disclosures; for this purpose, if this instrument is to be a FIRST lien to finance the purchase of a dwelling, use Stevens-Ness Form No. 1305 or equivalent; if this instrument is NOT to be a first lien, or is not to finance the purchase of a dwelling use Stevens-Ness Form No. 1306, or equivalent. If compliance with the Act is not required, disregard this notice.

(If the signer of the above is a corporation, use the form of acknowledgment opposite.)

James E. McCobb, trustee for the James E. McCobb, P.C., Trust Account  
James E. McCobb, personal

STATE OF OREGON,  
County of Klamath } ss.  
March 30, 1984, 19  
Personally appeared the above named  
James E. McCobb

(ORS 93.490)

STATE OF OREGON, County of \_\_\_\_\_, 19\_\_\_\_ ss.  
Personally appeared \_\_\_\_\_ and  
\_\_\_\_\_ who, each being first  
duly sworn, did say that the former is the  
president and that the latter is the  
secretary of \_\_\_\_\_

and acknowledged the foregoing instrument to be his voluntary act and deed.  
Before me:  
Notary Public for Oregon  
My commission expires: 1/24/88

a corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that the instrument was signed and sealed in behalf of said corporation by authority of its board of directors; and each of them acknowledged said instrument to be its voluntary act and deed.  
Before me:  
Notary Public for Oregon  
My commission expires: \_\_\_\_\_

STATE OF OREGON,  
County of Klamath } ss.

FORM NO. 23 — ACKNOWLEDGMENT  
STEVENS-NESS LAW PUB. CO., PORTLAND, ORE.

BE IT REMEMBERED, That on this 30 day of March, 1984 before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named James E. McCobb, trustee for James E. McCobb P.C., Trust Account

known to me to be the identical individual described in and who executed the within instrument and acknowledged to me that he executed the same freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Donna K. Matlock  
Notary Public for Oregon  
My Commission Expires 1/24/88

McCobb  
Grantor  
Certified Mortgage Company  
Beneficiary  
AFTER RECORDING RETURN TO  
Certified Mortgage Company  
803 Main Street, Suite 103  
Klamath Falls, Oregon 97601

SPACE RESERVED  
FOR  
RECORDER'S USE

ment was received for record on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_\_ M., and recorded in book/reel/volume No. \_\_\_\_\_ on page \_\_\_\_\_ or as document/fee/file/instrument/microfilm No. \_\_\_\_\_ Record of Mortgages of said County.  
Witness my hand and seal of County affixed.

By \_\_\_\_\_ Deputy

Order No. 38-27307  
Page 3

DESCRIPTION

PARCEL 1

A portion of the NE $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 17, Township 39 South, Range 10 East of the Willamette Meridian, in the County of Klamath, State of Oregon, more particularly described as follows:

Beginning at a point on the East boundary of the NE $\frac{1}{4}$ NW $\frac{1}{4}$  of said Section 17, which is 80 feet North of the intersection of said East boundary with the Northeasterly boundary of the Oregon California and Eastern Railroad, which point of beginning is the Northeasterly corner of that parcel of land conveyed by W. C. Dalton and Elizabeth E. Dalton, husband and wife, to Roy F. Kinsman and A. R. Campbell and Iva B. Campbell, his wife, said conveyance being recorded in Klamath County Deed Records, Volume 118, page 349; thence North 66° 57 $\frac{1}{2}$ ' West, along a line parallel to said railroad, a distance of 350 feet, more or less, to the Northwestern corner of said parcel deeded by Dalton to Kinsman, et al., which point is on the Southeasterly boundary of that parcel of land conveyed by I. E. Campbell and Katherine Campbell, husband and wife, to A. R. Campbell and Iva Bell Campbell, husband and wife, and Harold A. Campbell and Frances May Campbell, husband and wife, said conveyance being recorded in Klamath County Deed Records, Volume 278, page 73; thence North 23° 02 $\frac{1}{2}$ ' East, at right angles to said railroad, a distance of 6.38 feet, more or less, to the Northeasterly corner of said parcel deeded by I. E. Campbell, et ux., to A. R. Campbell, et al., thence North 66° 57 $\frac{1}{2}$ ' West along a line parallel to said railroad a distance of 160 feet, more or less, to the Northwestern corner of said parcel deeded by I. E. Campbell, et ux., to A. R. Campbell, et al.; thence South 23° 02 $\frac{1}{2}$ ' West along a line at right angles to said railroad a distance of 80 feet, more or less to the Northeasterly right of way line of said railroad; thence North 66° 57 $\frac{1}{2}$ ' West along said right of way line, a distance of 239.17 feet; thence North 23° 02 $\frac{1}{2}$ ' East at right angles to said railroad a distance of 110 feet; thence South 66° 57 $\frac{1}{2}$ ' East along a line parallel to said railroad, a distance of 733.69 feet, more or less, to the East boundary of the NE $\frac{1}{4}$ NW $\frac{1}{4}$  of said Section 17; thence South along the East boundary of said NE $\frac{1}{4}$ NW $\frac{1}{4}$  a distance of 39.53 feet, more or less to the point of beginning.

PARCEL 2

The NE $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 17, Township 39 South, Range 10 East of the Willamette Meridian, in the County of Klamath, State of Oregon, more particularly described as follows:

continued ...

Beginning at a point on the Northerly right of way line of the O.C. & E. Railroad which is 50 feet at right angles in a Northeasterly direction from Station 5162;80 of the O.C. & E. Railroad centerline and which point also lies West along the Northerly right of way line of the O.C. & E. Railroad a distance of 100 feet from the Westerly line of the Campbell Potato Cellar and running thence; continuing in a North-easterly direction at right angles to the O.C. & E. Railroad centerline at Station 5162;80 a distance of 80 feet to an iron pin; thence North-westerly parallel to the Northerly right of way line of the O.C. & E. Railroad a distance of 160 feet to an iron pin; thence Southwesterly at right angles a distance of 80 feet to an iron pin which lies on the Northerly right of way line of the O.C. & E. Railroad opposite Station 5164;40; thence Southeasterly along the Northerly right of way line of the O.C. & E. Railroad a distance of 160 feet, more or less, to the point of beginning.

PARCEL 3:

The NE $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 17, Township 39 South, Range 10 East of the Willamette Meridian, in the County of Klamath, State of Oregon, more particularly described as follows:

Beginning at a point where the North line of the O.C. & E. Railroad right of way crosses the county road, bisecting North and South Section 17, Township 39 South, Range 10 East of the Willamette Meridian, running thence North along the said County Road 80 feet; thence North-west and parallel to the right of way of the O.C. & E. Railroad 350 feet; thence Southwest and at right angles to the right of way of the O.C. & E. Railroad to the North boundary line of the said right of way; thence Southeast along the North boundary of said right of way to the point of beginning.

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

on this 2nd day of April A.D. 19 84  
at 3:46 o'clock P M, and duly  
recorded in Vol. M84 of Mortgages  
Page 5324  
EVELYN BIEHN, County Clerk  
By Don Smith Deputy  
Fee 16.00