

36924

TRUST DEED

Vol. msy Page 8474

THIS TRUST DEED, made this 18th day of May, 1984, between Bob Stewart Trucking, Inc., an Oregon corporation as Grantor, Transamerica Title Insurance Co., 600 Main St., Klamath Falls, OR, as Trustee, and C.I.T. Corporation, 975 Oak St., Suite 330, Eugene, Oregon as Beneficiary,

Grantor irrevocably grants, bargains, sells and conveys to trustee in trust, with power of sale, the property in Klamath County, Oregon, described as:
Lot 4, Block 8, Tract 1080, WASHBURN PARK, in the County of Klamath, State of Oregon.
Lot 5, Block 8, Tract 1080, WASHBURN PARK, in the County of Klamath, State of Oregon.
Lot 6, Block 8, Tract 1080, WASHBURN PARK, in the County of Klamath, State of Oregon.
This trust deed is to secure a security contract by C.I.T. to the Grantor in which the Grantor is purchasing certain equipment. This trust deed also secures any and all other security agreements or trust deeds which Bob Stewart Trucking, Inc. has made or given to C.I.T. Corporation. A default under this trust deed and its related security agreement or a default under any other trust deed or security agreement between the Grantor and C.I.T. shall be a default under this trust deed. C.I.T. shall have the right to exercise any and all remedies available to it cumulatively and/or in any order it chooses. C.I.T. may proceed together with or without the remedies hereunder and other rights hereunto 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 One Million Two Hundred One Thousand Three Hundred (\$1,201,300.00) Dollars, with interest thereon according to the terms of a contract not sooner paid, to be due and payable by grantor, the final payment of principal and interest hereof, if The date of maturity of the debt secured by this instrument is the date, stated above, on which the final installment of said contract 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.
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, to join in executing such financing statements pursuant 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 title officers or searching agencies as may be deemed desirable by the beneficiary.
4. To provide and continuously maintain insurance on the buildings and such other hazards as the beneficiary may from time to time require, in an amount not less than \$ _____, written in policies acceptable to the beneficiary, with loss payable to the beneficiary. 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 in force on said buildings, the beneficiary may procure the same at grantor's expense. The amount of any policy of insurance now or hereafter in force on said buildings, or any part thereof, may be determined by the beneficiary, 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 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 such taxes, 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 pay the same, beneficiary may, at its option, make payment thereof, 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, of the same extent that they are bound for the grantor, shall be bound to the beneficiary, and all such payments shall be immediately due and payable with interest thereon, and the nonpayment thereof shall, at the option of the beneficiary, 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 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 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.
8. It is mutually agreed that:
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 monies payable 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 not to 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 mortgage or 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 any subdivision or other agreement affecting this deed or the lien or charge thereon; (c) reconvey, without warranty, all or any part of the property to grantor 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 \$ _____.
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, and 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 to its fees upon any indebtedness secured hereby, and in such order as beneficiary may determine.
11. The entering upon and taking possession of said property for 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 constitute 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, 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 advertise 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, upon 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, including all sums secured hereby (including costs and expenses actually incurred in enforcing the terms of the obligation and trustee'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, of the truthfulness thereof. Any person, excluding the trustee, or 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 for 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 grantor in the trust deed as their interests may appear in the order of their priority in the trust deed; and (4) the balance, if any, to the grantor or to his successors 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 or to any conveyance to the successor trustee, the latter shall be bound with all the powers and duties conferred upon any trustee herein named or appointed hereunder. Each such appointment and substitution shall be made by deed or 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 or 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, or a person who is a duly licensed agent or broker under the laws of the State of Oregon, or a savings and loan association authorized to do business under the laws of the United States or any agency thereof, or an Oregon agent licensed under ORS 86A.020 to 86A.050. The non-judicial foreclosure of this trust deed shall not satisfy or cancel other outstanding security agreements.

The grantor covenants and agrees to and with the beneficiary and those claiming under him, that he is law-fully seized in fee simple of said described real property and has a valid, unencumbered title thereto except that certain trust deed given by Grantor to C.I.T. as beneficiary on April 7, 1983 to secure the sum of \$1,060,816.00. Said trust deed is still a valid lien on said property. It is understood that the security agreements referred to on the first page of* and that he will warrant and forever defend the same against all persons whomsoever. *this trust deed may have been given by the Grantor to another party as secured party but that the security agreements were assigned to C.I.T. Corporation as secured party. This trust deed secures any and all defaults under all security agreements given by the Grantor**

The grantor warrants that the proceeds of the loan represented by the above described note and this trust deed are:
(a) ~~for an organization, or (even if grantor is a natural person) are for business or commercial purposes other than agricultural purposes.~~
(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, execu-tors, 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.)

BOB STEWART TRUCKING, INC.

By Bob Stewart
ITS pres.

STATE OF OREGON,
County of _____ } ss.
_____, 19____
Personally appeared the above named _____

STATE OF OREGON, County of Klamath
May 18, 1984
Personally appeared Bob Stewart and _____ who, each being first

duly sworn, did say that the former is the president and that the latter is the secretary of Bob Stewart Trucking, Inc.

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:
Beverly J. French
Notary Public for Oregon

My commission expires: 3-14-88

(OFFICIAL SEAL)

and acknowledged the foregoing instru-ment to be voluntary act and deed.

Before me:
Notary Public for Oregon
My commission expires:

(OFFICIAL SEAL)

REQUEST FOR FULL RECONVEYANCE
To be used only when obligations have been paid.

TO: _____, Trustee

The undersigned is the legal owner and holder of all indebtedness secured by the foregoing trust deed. All sums secured by said trust deed have been fully paid and satisfied. You hereby are directed, on payment to you of any sums owing to you under the terms of said trust deed or pursuant to statute, to cancel all evidences of indebtedness secured by said trust deed (which are delivered to you herewith together with said trust deed) and to reconvey, without warranty, to the parties designated by the terms of said trust deed the estate now held by you under the same. Mail reconveyance and documents to _____

DATED: _____, 19____

Beneficiary

Do not lose or destroy this Trust Deed OR THE NOTE which it secures. Both must be delivered to the trustee for cancellation before reconveyance will be made.

TRUST DEED

(FORM No. 881)

STEVENS-NESS LAW PUB. CO., PORTLAND, ORE.

Grantor

Beneficiary

AFTER RECORDING RETURN TO

C.I.T. Corporation
975 Oak St., Suite 330
Eugene, ORE 97401

SPACE RESERVED
FOR
RECORDER'S USE

STATE OF OREGON,
County of Klamath } ss.

I certify that the within instrument was received for record on the 22nd day of May, 1984, at 2:08 o'clock P.M., and recorded in book/reel/volume No. M84 on page 8474 or as fee/file/instrument/microfilm/reception No. 36924, Record of Mortgages of said County.

Witness my hand and seal of County affixed.

Evelyn Biehn, County Clerk

By Don Smith Deputy

Fee: \$8.00

**and now held by C.I.T., whether or not C.I.T. was the original party to the security agree-ment or was assigned the rights of the secured party.