

AFTER RECORDING, RETURN TO:

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Clifford B. Alterman
1330 The Bank of California Tower
707 S.W. Washington Street
Portland, Oregon 97205

K-37501

MORTGAGE

This Mortgage is granted by KENNETH L. JESPERSEN, LAWRENCE C. JESPERSEN, JR., LEONARD KARL JESPERSEN, LORNA C. JESPERSEN, VICKY LYNN JESPERSEN, and VIOLETTE MAUREEN JESPERSEN ("Mortgagors"), as mortgagors, to BANK OF AMERICA NATIONAL TRUST AND SAVINGS ASSOCIATION ("Mortgagee"), a national banking association, as mortgagee.

1. Mortgage; Assignment of Rents. Mortgagors irrevocably mortgage, grant, bargain, sell, and convey to Mortgagee all of Mortgagors' interest in all of the following (collectively, the "Property"):

A. that real property in Klamath County, Oregon, described as the S $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 4; and SE $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 5; N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$ and that portion of the SW $\frac{1}{4}$ NE $\frac{1}{4}$ and the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 8, lying East of Swan Lake Road; and the N $\frac{1}{2}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$ and that portion of the SW $\frac{1}{4}$ of Section 9, lying East of Swan Lake Road, all being in Township 38 South, Range 10 East of the Willamette Meridian;

B. all buildings, structures, and improvements of every nature whatsoever now or later situated on that real property; and

C. all appurtenances and easements used in connection with that real property, all timber and timber cutting rights, all grazing rights, all water and water rights (whether riparian, appropriate, or otherwise, and whether or not appurtenant), all minerals and mineral rights, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances, reversions and remainders whatsoever, in any way belonging, relating, or appertaining to the Property or any part of it, or which shall in any way later belong, relate, or be appurtenant to it, whether owned now or acquired later by Mortgagors or any permitted successor in interest to Mortgagors.

As additional security, Mortgagors assign to Mortgagee the income, issues, profits, rents, and revenues of and from the Property, including rents and monies now or later deposited with Mortgagors by any tenant of the Property to secure payment of rent or performance of any other obligation. Upon default in performance of any provision of this Mortgage, Mortgagors agree to deliver those rents and deposits to Mortgagee.

2. Secured Indebtedness. Mortgagors grant this Mortgage for the purpose of securing prompt payment and performance, as and when due, of the following:

A. that certain Continuing Guaranty, dated on or about the same date as this Mortgage, of Mortgagors guaranteeing payment and performance of the obligations of Jespersen-Edgewood, Inc. ("Debtor"), an Oregon corporation, to Mortgagee;

85 APR 26 AM 10 59

B. Debtor's promissory note (the "Note") for Three million
sixty four thousand eight hundred twenty and no/100 -----

Dollars (\$ 3,064,820.00) payable to Mortgagee's order, dated on or about the same date as this Mortgage and under which the final payment is due April 11, 1990, including payment of interest and all other amounts owing under the Note;

KJH
February 28, 1990
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C. any and all present and future obligations and liabilities whatsoever of Mortgagors and Debtor to Mortgagee, including but not limited to extensions, modifications, and renewals of the Note, and whether primary, secondary, direct, indirect, fixed, or contingent, due or to become due, and whether for present or future advances;

D. all sums to be paid by Mortgagors under the terms of this Mortgage, including all reasonable expenses incurred by Mortgagee that are necessary at any time in Mortgagee's opinion for the protection of its interests or the enforcement of its rights, including without limitation the costs of searching records, obtaining title reports, surveyors' reports, attorneys' opinions, or title insurance, whether or not any court action is involved.

E. repayment to Mortgagee of all payments, including taxes, made by Mortgagee to persons holding rights or asserting claims superior to Mortgagee in the Property, and all payments made by Mortgagee under subparagraph 12H; and

F. performance of each agreement of Mortgagors in this Mortgage or contained in agreements between Mortgagors and Mortgagee.

All of the foregoing are called the "Indebtedness". All Indebtedness shall bear interest at the same rate as in the Note. The terms of Debtor's obligations to Mortgagee provide that the interest rate, payment terms, or balance due on the loan may be indexed, adjusted, renewed, or renegotiated. Upon Mortgagee's request, Mortgagors shall acknowledge or confirm in writing the balance due of the Indebtedness.

3. Payment of the Note and Expenses of this Mortgage. On Debtor's default, Mortgagors shall make all payments of interest and principal as provided in the Note, and in any note or notes given in renewal or replacement of the Note, promptly as those payments become due and payable and shall pay the unpaid balance of the Note upon maturity or upon acceleration in the event of default. Mortgagors shall also pay all costs, fees, and expenses of this Mortgage.

4. Warranties. Mortgagors warrant as follows:

A. Interest. Mortgagors hold good and merchantable title to the Property, subject to no liens or encumbrances other than those identified as exceptions 28 and 30 ("Prior Encumbrances") in the Preliminary Report on the Property issued by Klamath County Title Company, dated as of December 12, 1984. Mortgagors shall pay and perform all their obligations under Prior Encumbrances in accordance with their terms. Mortgagors shall defend Mortgagee's rights under this Mortgage against the claims and demands of all persons.

B. Consideration to Mortgagors. Mortgagors are substantial shareholder of Debtor and are each actively involved in the conduct of Debtor's business, and therefore Mortgagee's granting financial accommodations to Debtor will be of great value to Mortgagors. Mortgagors grant this Mortgage to induce Mortgagee to grant financial accommodations to Debtor. Mortgagors acknowledge that in making loan secured by this Mortgage, Mortgagee has relied on Mortgagors' credit, Mortgagors' interest in the Property, and financial market conditions at the time this loan is made. (Mortgagors are substantial shareholders of Debtor.)

C. Use of Loan Proceeds. The proceeds of the loan represented by the Note and secured by this Mortgage are not to be used for Mortgagors' personal, family, or household purposes. The proceeds are to be used for business or commercial purposes.

D. Use of Property. The current use of the Property is in compliance with all laws, ordinances, and regulations of all governmental authorities.

5. Taxes and Assessments. Mortgagors shall pay or cause to be paid taxes and assessments on the Property as follows:

A. Payment. All taxes and all assessments imposed against the Property and all claims and demands arising from use or occupancy of the Property shall be paid when due. Payment of real property taxes on a tri-annual installment basis, if provided for by law, shall be deemed payment when due for purposes of this subparagraph 5A. Mortgagors shall use and permit use of the Bancroft Bonding Act with respect to the Property only with Mortgagee's prior written consent.

B. Tax on Mortgages or Mortgagee. If any governmental authority levies any tax on account of this Mortgage, whether on Debtor, Mortgagors, or Mortgagee, Mortgagors shall pay the tax with and in addition to payments due under the Note, or at other times at Mortgagee's request, or Mortgagors shall pay the entire unpaid balance of principal and interest secured by this Mortgage, together with any prepayment penalties imposed by any agreement or security agreement between Mortgagors and Mortgagee.

C. Evidence of Payment of Taxes or Assessments. Upon payment of taxes and assessments, Mortgagors shall furnish Mortgagee evidence of payment.

D. Tax Statements. Mortgagors hereby authorize the assessor or tax collector of the county where the Property is located to furnish Mortgagee at any time a written statement of all taxes and assessments assessed or owing at any time against the Property. The Property shall be separately assessed from any other property. Any assessment of the Property jointly with any property not subject to this Mortgage shall be a breach of Mortgagors' obligations under this Mortgage and an event of default.

6. Liens and Encumbrances. Mortgagors shall maintain the Property free of any liens or other interests in the Property having priority over, equal to, or inferior to the interest of Mortgagee under this Mortgage, excepting only Prior Encumbrances, liens for taxes assessed but not due, and

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those later consented to in writing by Mortgagee. Mortgagors shall pay when due all encumbrances, charges, and liens affecting or purporting to affect title to the Property.

7. Mortgagors' Right to Contest. Mortgagors may withhold payment of any taxes or assessments, or may elect to contest any lien, if Mortgagors are in good faith conducting appropriate proceedings to contest their obligations to pay, and for so long as Mortgagee's interest in the Property is not jeopardized. If the Property is subjected to a lien that is not discharged within thirty (30) days from the date the notice of claim of lien is filed, Mortgagors shall deposit or cause to be deposited with Mortgagee cash, a sufficient corporate surety bond, or other security reasonably satisfactory to Mortgagee in an amount adequate to provide for discharge of the lien plus any interest, costs, attorney fees, or other charges that could accrue as a result of foreclosure or sale. In any contest Mortgagors shall at their expense defend themselves and Mortgagee and shall satisfy any final adverse judgment before enforcement against the Property.

8. Insurance. Mortgagors shall provide insurance on the Property as follows:

A. Property Insurance. Mortgagors shall procure and keep policies of fire and casualty insurance with standard extended coverage endorsements on not less than a ninety percent (90%) replacement cost basis covering all buildings and improvements, including additions and replacements, with loss payable to Mortgagee. If obtainable, the amount of insurance shall in no event be less than the amount of principal due under the Note. Mortgagors assign to Mortgagee all loss payments and return of premiums.

B. Insurance Companies, Policies, and Certificates. Both the insurance company providing the policy required by subparagraph 8A and the form of the policy must be acceptable to Mortgagee. Mortgagors shall deliver to Mortgagee a certificate of coverage from the insurance company with a stipulation that coverage will not be cancelled or reduced without a minimum of thirty (30) days' advance written notice to Mortgagee. Mortgagors shall deliver to Mortgagee at least thirty (30) days before the expiration of any insurance policy required by subparagraph 8A a certificate showing the placement of a renewal or substitute policy of insurance.

C. Notice of Loss. If there is a loss, Mortgagors shall immediately notify Mortgagee, which may make proof of loss if it is not made promptly by Mortgagors.

D. Application of Insurance Proceeds. Insurance proceeds shall be paid directly to Mortgagee, which may deal directly with any insurance company. All proceeds from any insurance on the Property shall be held by Mortgagee as collateral to secure performance of the obligations secured by this Mortgage. Mortgagors may elect either to restore or not to restore the damaged improvements. If Mortgagors, not then being in default, shall repair or replace the damaged improvements in a manner satisfactory to Mortgagee, Mortgagee shall, upon satisfactory proof of performance of work, pay or reimburse Mortgagors from the insurance proceeds for the reasonable cost of repair or restoration completed. If Mortgagors notify Mortgagee in writing that pursuant to their rights under this subparagraph 8D they elect not to repair or replace the damaged improvements, Mortgagee

shall apply the proceeds not to be so used toward payment of all or part of the Indebtedness in any order that Mortgagee may determine. Any insurance proceeds not paid out within one (1) year after their receipt for repair, replacement, or restoration of the Property shall forthwith be applied by Mortgagee toward payment of all or part of the Indebtedness in any order that Mortgagee may determine.

9. Use and Maintenance. Mortgagors shall use and maintain and permit use and maintenance of the Property as follows:

A. Duty to Maintain. Maintain the Property in good condition and repair and promptly perform all repairs and maintenance necessary to preserve its value.

B. Construction. Not begin construction, site preparation, design, planning, surveying, platting, or zoning procedures without Mortgagee's prior written consent.

C. Waste; Nuisance. Not conduct or permit any nuisance on the Property or commit or suffer any strip or waste of it, nor remove or permit the removal of any timber except with Mortgagee's prior written consent.

D. Removal of Improvements. Not demolish or remove any improvements now or later constructed on the Property without Mortgagee's prior written consent, but Mortgagors may make alterations they deem necessary for their commercial use of Property.

E. Mortgagee's Right to Enter and Inspect. Permit Mortgagee and its agents to enter upon the Property at all reasonable times to inspect the Property.

F. Compliance with Governmental Regulations. Promptly comply with all laws, ordinances, and regulations of all governmental authorities applicable to the use or occupancy of the Property. Mortgagors may contest in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Mortgagee's interests in the Property are not jeopardized.

G. No Conveyance. Not convey, transfer, or contract to sell, assign, or convey all or any of Mortgagors' interest in the Property, whether or not the transferee assumes and agrees to pay the Indebtedness in whole or in part, to any person, without Mortgagee's prior written consent. Mortgagee's acceptance of payments on account of this Mortgage from a transferee to whom Mortgagee has not consented shall not constitute a waiver of Mortgagee's right to declare a default for breach of this subparagraph 9G.

H. Leases. Not lease the Property or any part of it for a term of more than sixty (60) days' duration, including options, without Mortgagee's prior written consent, which may be withheld for any reason. Mortgagors shall not charge or collect from any tenant any prepaid rent or deposit that is more than one (1) month's rent, without Mortgagee's prior written consent. Mortgagors shall observe and perform all obligations of Mortgagors under any permitted lease or leases of the Property or any part of it.

10. Indemnity. Mortgagors shall hold Mortgagee harmless from any and all loss and expense, including but not limited to attorney fees and court costs, in any action or proceeding or any appeal brought against Mortgagee by a third party resulting from or attributable to Mortgagee's ownership of the Note or its interest under this Mortgage. Mortgagors shall appear in and defend, without cost to Mortgagee, any action or proceeding purporting to affect the Property, Mortgagors' title, or the rights, powers, and interests in the Property of Mortgagee. Mortgagors shall commence and maintain any action or proceeding necessary to protect the Property and those rights, powers, and interests. If Mortgagee elects to appear in, defend, or commence and maintain any such action or proceeding (including any proceedings under any law relating to insolvency or bankruptcy), Mortgagors shall pay all Mortgagee's costs and expenses, including reasonable attorney fees.

11. Events of Default. Any of the following shall constitute an event of default under this Mortgage:

A. Non-payment. Mortgagors' or Debtor's failure within the time required by this Mortgage

(1) to make any payment of principal or interest on the Note or any other obligation arising from this Mortgage or any other agreement with Mortgagee, or

(2) to pay any Prior Encumbrances, taxes, insurance, or to make any payment necessary to prevent filing of or to discharge any lien (subject to Mortgagors' right to furnish security and defend against any attempted lien foreclosure) against the Property not permitted by this Mortgage, or

(3) to perform any other covenant or agreement of this Mortgage or any agreements secured at any time in whole or part by this Mortgage.

B. Dissolution. Dissolution, termination of existence, insolvency, business failure, appointment of a receiver for any part of the property of, assignment for the benefit of creditors of, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Debtor or Mortgagors not dismissed within sixty (60) days of its filing.

C. Other Breach; Cross-Default. Breach by Mortgagors of any other covenant in, or any other act or occurrence declared a default by any of the terms of, any other mortgage or trust deed given to secure Debtor's obligations to Mortgagee, or by any other agreement between Mortgagee and Debtor or between Mortgagee and Mortgagors.

D. Misinformation. Falsity in any material respect of the warranties in paragraph 4 or of any representation, warranty, or information furnished to Mortgagee in connection with the Note or this Mortgage.

12. Remedies on Default. If any event of default occurs, Mortgagee may then and at any later time in its sole discretion exercise any one or more of the following rights and remedies, in addition to all other remedies which may be available now or later at law, in equity, or otherwise:

- A. Acceleration. Mortgagee may declare all sums secured by this Mortgage, including all interest and prepayment penalties, to be immediately due and payable.
- B. Foreclosure. With respect to all or any part of the Property that constitutes realty, Mortgagee shall have the right to foreclose this Mortgage by judicial foreclosure in the manner permitted by the law of Oregon. In exercising its rights and remedies, Mortgagee is free to sell all or any part of the Property together or separately, and to sell certain parts of the Property and refrain from selling other parts.
- C. Receiver. Mortgagee may have a receiver of the Property designated by it appointed, to serve without bond, if permitted by law. Mortgagee shall be entitled to the appointment of a receiver as a matter of right whether or not the apparent value of the Property exceeds the amount of the Indebtedness. Employment by Mortgagee shall not disqualify a person from serving as receiver. Mortgagors waive all defenses and consent to the appointment of a receiver at Mortgagee's option.
- D. Possession. Mortgagee may, either through a receiver or as a lender-in-possession, take possession of all or any part of the Property, and Mortgagors shall peaceably surrender it.
- E. Rents and Revenues. Mortgagee may revoke Mortgagors' right to collect the rents and revenues from the Property, including those past due and unpaid, and may, either itself or through a receiver, collect them. To facilitate collection, Mortgagee may notify Mortgagors' tenants to pay rents directly to it. Mortgagee shall not be deemed to be in possession of the Property solely by reason of exercise of the rights under this subparagraph 12E. If rents are collected by Mortgagee under this subparagraph 12E, Mortgagors hereby irrevocably designate Mortgagee as their attorney-in-fact to endorse instruments received in payment of rent, in respect of any part of the Property, in Mortgagors' names and to negotiate those instruments and collect their proceeds. Mortgagee may lease all or any part of the Property. Mortgagee may apply the net proceeds of all amounts collected over and above its costs against the Indebtedness.
- F. Fixtures and Personal Property. With respect to any fixtures or personal property subject to a security interest in favor of Mortgagee, Mortgagee may exercise any and all of the rights and remedies of a secured party under the Uniform Commercial Code.
- G. Abandon Security. Mortgagee may abandon any security afforded by this Mortgage or any other security instrument by notifying Mortgagors of Mortgagee's election to do so.
- H. Substituted Payment and Performance. Mortgagee shall have the right (but not the obligation) to make any payment or perform any act that Mortgagors are required to make or perform under this Mortgage without notice to or demand upon Mortgagors and without releasing Mortgagors from any obligation, and to buy, contest, or compromise any encumbrance, charge, or lien that in Mortgagee's judgment appears to affect the Property. In exercising this right, Mortgagee may incur any liabilities and expend whatever amounts in its absolute discretion it may deem necessary. All sums so incurred or

expended by Mortgagee shall be part of the Indebtedness and shall be immediately due and payable by Mortgagors; provided, however, that at Mortgagee's option those sums may be added to the principal balance of the Indebtedness.

Election to pursue one remedy shall not exclude resort to any other remedy, and, unless the context otherwise requires, all remedies under this Mortgage are cumulative, not alternative or exclusive, and may be repeatedly exercised. Mortgagee's election to pay or perform under subparagraph 12H shall neither prejudice its right to declare a default nor constitute a waiver of the breached term or of any of the remedies provided in this Mortgage. No delay or omission in exercising any right or remedy shall impair that or any other right to remedy or shall be construed to be a waiver of the default.

13. Receiver or Lender-in-Possession. Upon taking possession of all or any part of the Property, a receiver or Mortgagee or Mortgagee's representative may but is not obligated to do any one or more of the following:

A. Management. Use, operate, manage, control, and conduct business on the Property and make expenditures for any purposes and for maintenance and improvements as in its judgment are necessary.

B. Rents and Revenues. Collect all rents, revenues, incomes, issues, and profits from the Property and apply those sums to the expenses of use, operation, management, maintenance, and improvements.

C. Construction. At its option, complete any construction in progress on the Property, and in that connection pay bills, borrow funds, employ contractors, and make any changes in plans and specifications as it deems appropriate.

All of the receiver's costs, including overhead and attorney fees, shall be added to the Indebtedness. If the revenues produced by the Property are insufficient to pay expenses, including, without limitation, any disbursements made by Mortgagee under this paragraph 13, a receiver may borrow, or Mortgagee may advance, any sums upon any terms it deems necessary for the purposes stated in this paragraph 13, and repayment of those sums shall be secured by this Mortgage. Sums borrowed or advanced shall bear interest at the same rate as in the Note. Sums borrowed or advanced and interest on them shall be payable by Mortgagors to Mortgagee on demand.

14. Application of Proceeds. All proceeds realized from the exercise of rights and remedies under paragraphs 12 and 13 shall, if consistent with applicable law, be applied as follows:

A. Costs and Expenses. To pay the costs of exercising all rights and remedies, including the costs of any foreclosure, the costs and expenses of any receiver or lender-in-possession, and the costs and expenses provided for in paragraph 22.

B. Indebtedness. Upon the Indebtedness and all other amounts owed by Debtor or Mortgagors, payment of which is secured by this Mortgage.

C. Surplus. The surplus, if any, shall be paid to the clerk of the court in the case of a foreclosure by judicial proceeding, otherwise to Mortgagors.

15. Mortgagee's General Powers. Without affecting the liability of any person, including Debtor, Mortgagors and any other guarantor, for payment of the Indebtedness, whether as maker, debtor or guarantor, or affecting the lien of this Mortgage on the remainder of the Property for the full amount of Indebtedness unpaid, Mortgagee is empowered to do any one or more of the following at any time and from time to time and without notice:

- A. release any person liable in whole or part for payment of any of the Indebtedness;
- B. extend the time or otherwise alter the terms of payment of any of the Indebtedness;
- C. accept additional security for the Indebtedness of any kind, including trust deeds, or mortgages, or security interests in fixtures or personal property;
- D. alter, substitute, or release any of the Property or other security it may hold;
- E. do or forbear from doing any other act in regard to the Property or the Indebtedness;
- F. consent to the making of any map or plot of the Property;
- G. join in granting any easement or creating any restriction on the Property;
- H. join in any subordination or other agreement affecting this Mortgage or its lien or charge; and
- I. grant partial discharges of this Mortgage with respect to any of the Property without affecting the priority of the lien of this Mortgage.

16. Mortgagors' Waiver. Mortgagors waive any right to require Mortgagee to proceed against or exhaust any security held or pursue any other other remedy in Mortgagee's power whatsoever. Mortgagors waive any defense arising by reason of any disability or other defense of any other person, or by reason of the cessation from any cause whatsoever of the liability of any other person. Until all Indebtedness has been paid in full, Mortgagors shall have no right of subrogation, and waive any benefit of, and any right to participate in, any security now or later held by Mortgagee. Mortgagors waive all presentments, demands for performance, notices of non-performance, protests, notices of protests, notices of dishonor, and notices of existence, creation, or incurring of new or additional indebtedness.

17. Condemnation and Eminent Domain. Condemnation, eminent domain, and similar proceedings affecting the Property shall have the following effects:

- A. Notice of Taking or Condemnation Proceedings. If the Property or any part of it or interest in it is taken or damaged because of any public improvement or condemnation proceeding, or if Mortgagors receive any notice or other information regarding a condemnation proceeding or similar type of proceeding, Mortgagors shall immediately notify Mortgagee.

B. Condemnation Proceeds. Mortgagee is entitled to all compensation, awards, and other payments or relief related to condemnation, and shall be entitled at its sole option to commence, appear in, and prosecute in its own name any such action or proceeding. Mortgagee shall also be entitled to make any compromise or settlement in connection with the taking or damage. All such compensation, awards, damages, and proceeds awarded to Mortgages ("Condemnation Proceeds") are hereby assigned to Mortgagee, and Mortgages agree to execute all further assignments of the Condemnation Proceeds Mortgagee may require.

(1) If there is a taking that substantially impairs Mortgages' capacity to continue their prior use of the property, Mortgagee shall have the right in its sole and absolute discretion to apply the Condemnation Proceeds, after deducting all costs and expenses (regardless of their particular nature and whether incurred with or without suit) including attorney fees incurred by Mortgagee in connection with the Condemnation Proceeds, to all or part of the Indebtedness in any order Mortgagee may determine, and whether or not the security of Mortgagee is impaired.

(2) If there is a partial taking that leaves sufficient property for Mortgages' business to continue substantially as now conducted, and if there is no default under this Mortgage, Mortgages shall be entitled to use as much of the Condemnation Proceeds as may be necessary, after deducting all of Mortgagee's costs and expenses relating to the condemnation, to restore the Property.

18. Security Agreement. This Mortgage shall constitute a security agreement with respect to all timber to be cut, minerals and the like (including oil and gas), all machinery and equipment, including all pumps, pipes, and other irrigation equipment, and all harvested timber, all wherever located, and any fixtures and personal property (including replacements and substitutions) owned by Mortgages or in which Mortgages have any interest and now or later located on the Property, and with respect to all general intangibles arising from the use, operation, or interests of Mortgages in the Property, and accounts, chattel paper, and proceeds of all the foregoing. This Mortgage shall also constitute a security agreement with respect to all rents, profits, and royalties derived from or attributable to the Property. Mortgages shall join with Mortgagee at any time at Mortgagee's request in executing one or more financing statements and security agreements as requested, including renewals and extensions as may be required to preserve the priority of Mortgagee's security interest under the Uniform Commercial Code, and to file the statements at Mortgages' expense in all public offices where filing may be required or prudent under the Uniform Commercial Code to perfect the security interest of Mortgagee. This Mortgage shall also constitute a financing statement and shall be filed for recording in the real estate records of the county where the Property is located.

19. Timber, Grazing, Water, Mineral, and Other Rights. If anyone shall establish and exercise or be granted any right to cut timber, or graze livestock, or develop, bore for, or mine any water, gas, oil, or mineral, including sand or gravel, on or under the surface of the Property, all sums that may later become due and payable to Mortgages as payment, bonus, royalty, or other consideration for any such

right shall be considered rent under this Mortgage. Those sums, together with damages and other compensation payable to Mortgagors by reason of the exercise of those rights, are made subject to this Mortgage, including the security interest created in favor of Mortgagee, and shall be applied in accordance with the provisions of this Mortgage.

20. Discharge. Upon payment in full of all the Indebtedness and performance of all obligations of Mortgagors under this Mortgage, Mortgagee shall sign and deliver to Mortgagors an appropriate form of discharge of this Mortgage and shall make suitable statements of termination or assignment of any financing statements on file that evidence Mortgagee's security interest in personal property.

21. No Waiver. No waiver by Mortgagee of its rights under this Mortgage or the Indebtedness shall be effective unless in writing and signed by an officer of Mortgagee. A waiver by Mortgagee of a breach of one or more provisions of this Mortgage, or as to one transaction or occurrence, including the provisions of this paragraph 21, shall not constitute a waiver of or prejudice Mortgagee's right otherwise to demand strict compliance with that provision or provisions, including the provisions of this paragraph 21, or any other provision of this Mortgage or other agreements with Debtor or Mortgagors. By accepting payment of any sum secured by this Mortgage after its due date, or after the filing of notice of default and of election to sell, Mortgagee shall not waive its right to require prompt payment when due of all other sums so secured, or to declare default for failure so to pay, or to exercise any other remedy that Mortgagee might have or be in the process of exercising. If Mortgagee holds any additional security for any obligation secured by this Mortgage, it may enforce the sale of that security at its option, either before, contemporaneously with, or after the exercise of any rights under this Mortgage, and on any event of default. Mortgagee's election to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Mortgagors under this Mortgage after their failure to perform shall not affect Mortgagee's right to declare a default and exercise its remedies under this Mortgage.

22. Attorney Fees. If action is instituted to enforce any of the terms of this Mortgage, the prevailing party shall be entitled to recover any amount the court may adjudge reasonable as attorney fees at trial and on any appeal.

23. Books and Records. Mortgagee (whether or not there is a default) may examine all Mortgagors' books, records, and contracts pertaining to the Property and of any guarantors and make such memoranda and copies of them as Mortgagee may desire.

24. Fees for Statements. For any statement regarding the obligations secured by this Mortgage, Mortgagee may charge the maximum amount permitted by law at the time of the request for the statement.

25. Construction. In construing this Mortgage, the term "Mortgage" means "security agreement" with respect to any personal property. The singular shall include the plural, and the plural shall include the singular, as may be appropriate.

26. Applicable Law. This Mortgage shall be governed by the laws of the state of Oregon applicable to contracts to be wholly performed in Oregon, but without regard to the law of conflict of laws.

27. Time of Essence. Time is of the essence of this Mortgage.

28. Headings. The headings to the sections and paragraphs of this Mortgage are included only for the convenience of the parties and do not define, diminish, or enlarge the rights of the parties or affect the construction or interpretation of any portion of this Mortgage.

29. Severability. If any provision of this Mortgage shall be held invalid, illegal, or unenforceable, that invalidity, illegality, or unenforceability shall not affect any other provisions of this Mortgage, but this Mortgage shall be construed as if the invalid, illegal, or unenforceable provision had never been contained in this Mortgage.

30. Mortgagee's Consent. Whenever Mortgagee's consent is required under this Mortgage, that consent will not be unreasonably withheld or delayed, except where this Mortgage provides otherwise.

31. Interest Rate. If any provision of this Mortgage or any note or obligation it secures shall call for a rate of interest in excess of the maximum interest permitted by law, that provision shall be considered to call for a rate of interest that is the maximum rate permitted by law and no more than that rate.

32. Notices. Notices required under this Mortgage or by law shall be personally delivered or delivered by courier or certified mail to Mortgagee at:

Bank of America National Trust and Savings Association
North Valley Corporate Agribusiness Banking Group
P.O. Box 1289
Chico, California 95927
Attention: Mark A. Van Hook, Assistant Vice President

and to Mortgagors addressed to Lawrence C. Jespersen, Jr. at:
Route 2, Box 809S
Klamath Falls, Oregon 97601

33. Joint and Several Obligations; Benefit and Binding Effect. Mortgagors' promises, obligations, representations, and warranties under this Mortgage are joint and several. Subject to the limitations stated in this Mortgage on transfer of Mortgagors' interest, this Mortgage binds and benefits the parties, their successors, heirs, personal representatives, and assigns.

April 26, 1985
DATED January 25, 1985.

MORTGAGORS:

Kenneth L. Jespersen
Kenneth L. Jespersen

Lawrence C. Jespersen, Jr.
Lawrence C. Jespersen, Jr.

Leonard Karl Jespersen
Leonard Karl Jespersen

Lorna C. Jespersen
Lorna C. Jespersen

Vicky Lynn Jespersen
Vicky Lynn Jespersen

Violetta Maureen Jespersen
Violetta Maureen Jespersen

STATE OF OREGON)
County of Klamath) ss.

~~January~~ April 25, 1985, The foregoing instrument was acknowledged before me by Kenneth L. Jespersen.

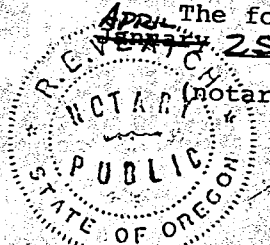


(notarial seal)

R. E. Veatch
Notary Public for Oregon
My Commission expires: 4-6-89

STATE OF OREGON)
County of Klamath) ss.

~~January~~ April 25, 1985, The foregoing instrument was acknowledged before me by Lawrence C. Jespersen, Jr.



(notarial seal)

R. E. Veatch
Notary Public for Oregon
My Commission expires: 4-6-89

STATE OF OREGON)
County of Klamath) ss.

~~January~~ April 25, 1985, The foregoing instrument was acknowledged before me by Leonard Karl Jespersen.

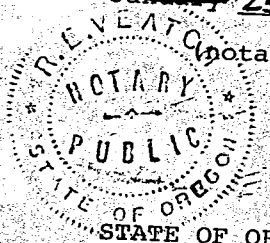


(notarial seal)

R. E. Veatch
Notary Public for Oregon
My Commission expires: 4-6-89

STATE OF OREGON)
County of Klamath) ss.

~~January~~ April 25, 1985, The foregoing instrument was acknowledged before me by Lorna C. Jespersen.

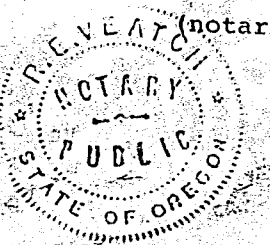


(notarial seal)

R. E. Veatch
Notary Public for Oregon
My Commission expires: 4-6-89

STATE OF OREGON)
County of Klamath) ss.

~~January~~ April 25, 1985, The foregoing instrument was acknowledged before me by Vicky Lynn Jespersen.



(notarial seal)

R. E. Veatch
Notary Public for Oregon
My Commission expires: 4-6-89

STATE OF OREGON)
County of Klamath) ss.

6060

~~January~~ April The foregoing instrument was acknowledged before me
25, 1985, by Violette Maureen Jespersen.

(notarial seal)

V. E. Jespersen
Notary Public for Oregon
My Commission expires: 4-6-89

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

on this 26th day of April A.D. 19 85
at 10:59 o'clock A M, and duly
recorded in Vol. M85 of Mortgages
Page 6047

EVELYN BIEHN, County Clerk

By [Signature] Deputy

Fee 57.00