

THIS INSTRUMENT, made this 21st day of March, 19 86 between ROBERT A. STEWART, As estate in fee simple as to an undivided one-half interest and\* herein called "Mortgagor" and WESTERN BANK, an Oregon banking corporation, herein called "Mortgagee" and ROBERT J. HARRAHILL and BETTY L. HARRAHILL, An estate in fee simple as tenants by the entirety as to an undivided one-half interest, all as tenants in common.  
WITNESSETH:

For value received by the Mortgagee from the Mortgagor, the Mortgagor does hereby grant, bargain, mortgage and convey unto the Mortgagee all the following described property situated in Klamath County, Oregon, to-wit:

See Attached Exhibit "A" for legal description.

together with the tenements, hereditaments and appurtenances now or hereafter thereunto belonging or in anywise appertaining, including but not limited to roads and easements used in connection with the premises; also, all fixtures, buildings and parts of buildings situated upon said property, including but not limited to electric wiring and fixtures; furnace and heating system, water heaters, fuel storage receptacles, plumbing, venting, water and irrigating systems; screens, doors; window shades and blinds, shutters; cabinets, built-ins, bookshelves and floor coverings, built-in stoves, ovens, garbage disposals, air conditions, refrigerators, freezers, dishwashers, and all other fixtures now or hereafter installed in or on the premises; and any shrubbery, flora or timber now growing or hereafter planted or growing thereon, and any and all replacements of any one or more of the foregoing items, in whole or in part, all of which are hereby declared to be appurtenant to the land; and all the rents, issues and profits arising from the mortgaged property.

TO HAVE AND TO HOLD the same unto the Mortgagee, its successors and assigns forever.

The Mortgagor does hereby covenant to and with the Mortgagee that the Mortgagor is lawfully seized in fee simple of the said real property, that it is the absolute owner of all items of property described hereinabove, that the said property is free from encumbrances of every kind and nature, and that it will warrant and forever defend the same against the lawful claims and demands of all persons whomsoever.

This conveyance is intended as a mortgage to secure performance of the covenants and agreements herein contained, to be by the Mortgagor kept and performed and to secure the payment of the sum of \$ 424,934.20 and interest thereon in accordance with the tenor of a certain promissory note executed by Robert A. Stewart and Marilyn J. Stewart and Robert J. Harrahill and Betty L. Harrahill dated March 20, 19 86, payable to the order of the Mortgagee in installments of not less than \$ 6,300.00 each including interest, on the 15th day of each month commencing April 9, 19 86, until July 9, 19 89, when the balance then remaining unpaid shall be paid.

This Mortgage is also given as security for the payment of any and all other indebtednesses, obligations or liabilities of the Mortgagor to the Mortgagee now existing or hereafter arising, matured or to mature, absolute or contingent and wherever payable, including but not limited to such as may arise from endorsements, guarantees, acceptances, bills of exchange, promissory notes, or other paper discounted by the Mortgagee or held by the Mortgagor, or taken as security for any loans or advances of any kind, sort or description whatsoever.

1. This Mortgage shall be subject to the following conditions and covenants: (a) Interest shall be paid by the Mortgagor, when due, all other sums payable by said Mortgagor, and all taxes, assessments, charges upon said premises, or for service furnished thereto, in addition thereto, he shall pay, at the time of payment of each installment of principal and interest, such amount as Mortgagee shall estimate to be sufficient to produce, at least one month prior to the time when payment thereof shall become due, the amount of (a) taxes, assessments and other governmental rules and charges against said premises (herein all called "taxes") and (b) premiums upon insurance against loss or damage to said premises (said amounts being referred to hereinafter as "loan trust funds"). If the sums so paid shall be less than sufficient for said purposes, Mortgagee will advance, upon demand, such additional sums as Mortgagee shall deem necessary therefor. If Mortgagee deems a "package" plan of insurance which includes coverage in addition to that required under this mortgage, Mortgagee may, at its option, establish and administer a reserve for that purpose. If the package plan reserve is not sufficient to pay the renewal premiums on a package plan policy, then Mortgagee may use such reserve to pay premiums on a policy covering only risks required to be insured against under this mortgage and allow the package plan policy to lapse. Mortgage shall, upon the written direction of Mortgagee, and may, without such direction, apply sums paid by Mortgagee and held by Mortgagee to the purposes aforesaid, but the receipt of such sums shall not, in the absence of such direction, impose any duty upon Mortgagee to discharge the same or relieve Mortgagee from his obligations to pay said obligations or to keep the premises insured. Mortgagee may, from time to time, establish reasonable service charges for the collection and disbursement of premiums on package type insurance policies. Mortgagee shall not, whether or not service charges are imposed, be subject to any liability for failure to transmit any premiums to any insurer or by reason of any loss growing out of any defect in any insurance policy. At Mortgagee's option, Mortgagee may apply all loan trust funds directly to the payment of the principal balance then unpaid on the indebtedness secured hereby; if Mortgagee elects so to do, Mortgagee is authorized to pay taxes, insurance premiums on the mortgaged property and all other charges which could otherwise be payable from the loan trust funds, when the same become due and payable, and Mortgagee may then add the amount of any such payment to the principal balance then unpaid on the indebtedness secured hereby, each such payment to bear interest as provided in the promissory note mentioned hereinabove.

2. This Mortgage shall be subject to the following conditions and covenants: (a) Interest shall be paid by the Mortgagor, when due, all other sums payable by said Mortgagor, and all taxes, assessments, charges upon said premises, or for service furnished thereto, in addition thereto, he shall pay, at the time of payment of each installment of principal and interest, such amount as Mortgagee shall estimate to be sufficient to produce, at least one month prior to the time when payment thereof shall become due, the amount of (a) taxes, assessments and other governmental rules and charges against said premises (herein all called "taxes") and (b) premiums upon insurance against loss or damage to said premises (said amounts being referred to hereinafter as "loan trust funds"). If the sums so paid shall be less than sufficient for said purposes, Mortgagee will advance, upon demand, such additional sums as Mortgagee shall deem necessary therefor. If Mortgagee deems a "package" plan of insurance which includes coverage in addition to that required under this mortgage, Mortgagee may, at its option, establish and administer a reserve for that purpose. If the package plan reserve is not sufficient to pay the renewal premiums on a package plan policy, then Mortgagee may use such reserve to pay premiums on a policy covering only risks required to be insured against under this mortgage and allow the package plan policy to lapse. Mortgage shall, upon the written direction of Mortgagee, and may, without such direction, apply sums paid by Mortgagee and held by Mortgagee to the purposes aforesaid, but the receipt of such sums shall not, in the absence of such direction, impose any duty upon Mortgagee to discharge the same or relieve Mortgagee from his obligations to pay said obligations or to keep the premises insured. Mortgagee may, from time to time, establish reasonable service charges for the collection and disbursement of premiums on package type insurance policies. Mortgagee shall not, whether or not service charges are imposed, be subject to any liability for failure to transmit any premiums to any insurer or by reason of any loss growing out of any defect in any insurance policy. At Mortgagee's option, Mortgagee may apply all loan trust funds directly to the payment of the principal balance then unpaid on the indebtedness secured hereby; if Mortgagee elects so to do, Mortgagee is authorized to pay taxes, insurance premiums on the mortgaged property and all other charges which could otherwise be payable from the loan trust funds, when the same become due and payable, and Mortgagee may then add the amount of any such payment to the principal balance then unpaid on the indebtedness secured hereby, each such payment to bear interest as provided in the promissory note mentioned hereinabove.

2. That Mortgagee will not commit or permit strip or waste of the said premises, or any part thereof; that Mortgagee will keep the real and personal property hereinabove described in good order and repair and in tenable condition; that Mortgagee will promptly comply with any and all municipal and governmental rules and regulations with reference thereto; that Mortgagee will not cut or permit the cutting or removal of any timber without the written consent of Mortgagee, that if any of the said property be damaged or destroyed by any cause, Mortgagee will immediately reconstruct or repair the same so that, when completed, it shall be worth not less than the value thereof at the time of such loss or damage; provided, that if such loss or damage shall be caused by a hazard covered by insurance payable to Mortgagee, the obligation of the Mortgagee to repair or reconstruct shall not arise unless the Mortgagee shall consent to the application of the insurance proceeds to the expense of such reconstruction or repair.

2. That he will, at his own cost and expense, keep the building or buildings now or hereafter upon said premises, together with all personal property covered by the list herof,

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insured against loss by fire and against loss by such other hazards as the Mortgagee may from time to time require, in one or more insurance companies satisfactory to or designated by the Mortgagee in an aggregate amount not less than the amount of the indebtedness hereby secured (unless the full insurable value of such building or buildings is less than the amount hereby secured, in which event the Mortgagor shall insure to the amount of the full insurable value); that all policies of insurance upon said premises, including policies in excess of the amount hereinabove mentioned and policies against other hazards than those required, shall contain such provisions as the Mortgagee shall require and shall provide, in such form as the Mortgagee may prescribe, that loss shall be payable to the Mortgagee; that all such policies and receipts showing full payment of premiums therefor shall be delivered to and retained by the Mortgagee during the existence of this mortgage; that at least 5 days prior to the expiration of any policy or policies he will deliver to the Mortgagee satisfactory renewals thereof together with premium receipts in full; that if any policy or policies shall impose any condition upon the liability of the insurer or shall contain any "average clause" or other provision by which the insurer may be liable for less than the full amount of the loss sustained, he will, as often as the Mortgagee may require, provide the Mortgagee with all such evidence as it may request concerning the performance of such condition or the existence of any facts or the value of the property insured and, if it shall appear to the Mortgagee that the insurance is prejudiced by the acts or omissions of the Mortgagor or that the coverage is inadequate, the Mortgagor will do such acts and things and obtain such further insurance as the Mortgagee may require; that the Mortgagee may, at its option, require the proceeds of any insurance policies upon the said premises to be applied to the payment of the indebtedness hereby secured or to be used for the repair or reconstruction of the property damaged or destroyed.

4. That he will execute

4. That he will execute or procure such further assurance of his title to the said property as may be requested by the Mortgagee.

5. That in case the Mortgagee shall be required to do or pay

5. That in case the Mortgagor shall fail, neglect or refuse to do or perform any of the acts or things herein required to be done or performed, the Mortgagee may, at its option, but without any obligation on its part so to do, and without waiver of such default, procure any insurance, pay any taxes or liens or utility charges, make any repair, or do any other of the things required, and any expenses so incurred and any sums so paid shall bear interest at 8% per annum, or at the rate of interest set forth in the note mentioned above, whichever is greater, and shall be secured hereby.

6. That he will not

6. That he will not, without the prior written consent of Mortgagee, transfer his interest in said premises or any part thereof, whether or not the transferee assumes or agrees to pay the indebtedness hereby secured. Upon any application for Mortgagee's consent to such a transfer, Mortgagee may require from the transferee such information as would normally be required if the transferee were a new loan applicant. Mortgagee shall not unreasonably withhold its consent. As a condition of its consent to any transfer, Mortgagee may, in its discretion, impose a service charge not exceeding one percent of the original amount of the indebtedness hereby secured and may increase the interest rate on the indebtedness hereby secured by not more than one percent per annum.

7. That, if any default is made by the mortgagor in the principal or interest payments on the loan hereunder, then the

7. That, if any default be made in the payment of the principal or interest of the indebtedness hereby secured or the performance of any of the covenants or agreements of this mortgage, the Mortgagee may, at its option, without notice, declare the entire sum secured by this mortgage due and payable and foreclose this mortgage.

1. That, in the event of the institution of any suit or action by or against the Mortgagee, the Mortgagor will pay such sum as the trial court and any appellate court may adjudge reasonable as attorney's fees in connection therewith and with further sums as the Mortgagee shall have paid or incurred for costs and disbursements in such suit or action, extensions of abstracts or title searches or examinations fees in connection therewith, whether or not final judgment or decree therein be entered and all such sums are secured hereby and shall bear interest from the date paid or incurred by Mortgagee as from the date of judgment, whichever occurs first, at the rate set forth in the promissory note recited hereinabove. That in any such suit, the court may, upon application of the plaintiff and without regard to the condition of the property or the adequacy of the security for this indebtedness hereby secured and without notice to the Mortgagor or any one else, appoint a receiver to take possession and care of all real or engaged property and collect and receive any or all of the rents, issues and profits which had theretofore arisen or accrued or which may arise or accrue during the pendency of such suit, that any amount so received shall be applied toward the payment of the debt secured hereby, after first paying therefrom the charges and expenses of such receivership, but that in the event of default by the Mortgagor in either or more of his covenants or agreements herein contained, he may remain in possession of the mortgaged property and retain all rents actually paid or to be received by him in person to such default.

2. That the word "Mortgagee", and the language of this instru-

ment 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. Masculine pronouns include feminine and neuter. All of the covenants of the Mortgagor shall be binding upon his heirs, executors, administrators, successors and assigns and inure to the benefit of the successors and assigns of the Mortgagee. In the event of any transfer of the property herein described or any part thereof or any interest therein, whether voluntary or involuntary or by operation of law, the Mortgagee may, without notice to the Mortgagor or any one else, once or often, extend the time of payment or grant renewals of indebtedness hereby secured for any term, execute releases or partial releases from the lien of this mortgage or in any other respect modify the terms hereof without thereby affecting the personal primary liability of the Mortgagor for the payment of the indebtedness hereby secured. No condition of this mortgage shall be deemed waived unless the same be expressly waived in writing by the Mortgagee. Whenever any notice, demand, or request is required by the terms hereof or by any law now in existence or hereafter enacted, such notice, demand or request shall be sufficient if personally served on one or more of the persons who shall at the time hold record title to the property herein described or if enclosed in a postpaid envelope addressed to one or more of such persons or to the Mortgagor at the last address actually furnished to the Mortgagee or at the mortgaged premises and deposited in any post office, station or letter box.

IN WITNESS WHEREOF, the Mortgagor, I, have hereunto set their hands and seals

Robert A. Stewart (SEAL)  
Robert A. Stewart  
Marilyn J. Stewart (SEAL)  
Marilyn J. Stewart  
Robert J. Harrahill (SEAL)  
Robert J. Harrahill  
Betty L. Harrahill (SEAL)  
Betty L. Harrahill

STATE OF OREGON

County of Klamath

March 20

A.D. 19 86

Personally appeared the above-named Robert A. Stewart and Marilyn J. Stewart and Robert J. Harrahill and Betty L. Harrahill

and acknowledged the foregoing instrument to be their voluntary act and deed. Before me:

Return to:

Wells Fargo Bank

P.O. Box 669

Klamath Falls, OR 97601

Stephanie Moore  
Notary Public for Oregon.

My Commission Expires: 8/27/87

EXHIBIT 'A'

The following described real property situate in Klamath County, Oregon:

PARCEL 1:

A tract of land situated in Lot 1, Block 2, Tract 1080, Washburn Park, a duly recorded subdivision, more particularly described as follows: Beginning at a point on the East line of said Lot 1, said point being North 00°04'50" East 175.00 feet from the Southeast corner of said Lot 1; thence North 00°04'50" East along said East line, 175.00 feet; thence North 89°55'10" West parallel to the South line of said Lot 1, 250.00 feet; thence South 00°04'50" West 175.00 feet; thence South 89°55'10" East 250.00 feet to the point of beginning, containing 1.00 acre, more or less.

PARCEL 2:

A tract of land situated in Lots 1 and 2, Block 2 of Tract 1080, Washburn Park, according to the recorded plat thereof on file in the office of the County Clerk of Klamath County, Oregon, more particularly described as follows: Beginning at a point on the West line of Lot 1, said Block 2 which bears N. 0°04'50" E. a distance of 175.00 feet from the Southwest corner thereof; thence continuing N. 0°04'50" E. along the West line of said Lot 1 a distance of 211.57 feet to a 5/8 inch iron pin on the Center Section Line; thence N. 0°03'30" E. along the West line of Lots 1 and 2 a distance of 401.08 feet to an iron pin marking the beginning of a curve to the left; thence along the arc of said curve to the left, having a central angle of 24°40'11" and a radius of 440.00 feet, a distance of 189.66 feet to a point on the East line of tract described in Volume M75 page 11016, Microfilm Records of Klamath County, Oregon; thence N. 0°04'03" W. along the East line of said tract a distance of 264.81 feet to the Northeast corner thereof; thence N. 66°51'15" W., along the Northwesterly line of said tract a distance of 150.43 feet to a point on the Northwesterly line of said Lot 2, Block 2; thence N. 27°14'33" E. along said line a distance of 49.72 feet to the Northwest corner of said Lot 2; thence N. 89°41'49" E. along the North line of Lot 2 a distance of 403.23 feet to the Southerly line of the O.C.&E. Railroad right-of-way; thence along said right-of-way, S. 66°51'15" E. a distance of 103.62 feet to a point on the Northwesterly line of Lot 3, Block 2, Washburn Park; thence along the arc of a curve to the left, having a central angle of 08°32'26" and a radius of 356.28 feet, a distance of 53.11 feet to a point on the West line of said Lot 3; thence S. 0°03'30" W. along said West line a distance of 252.59 feet to the Southeast corner thereof; thence N. 89°56'30" E. along the South line thereof a distance of 161.96 feet to the Southeast corner thereof and the West line of Washburn Way; thence S. 0°03'30" W. along the West line of Washburn Way a distance of 143.83 feet to the Northeast corner of parcel conveyed to Federal Land Bank by Volume M83 page 10559, Microfilm Records of Klamath County, Oregon; thence following the perimeter of said parcel, N. 89°56'30" W., 250.0 feet; S. 0°03'30" W., 250.0 feet; S. 89°56'30" E., 249.99 feet to the West line of Washburn Way; thence S. 0°04'50" W. along said West line a distance of 20.44 feet to the Northeast corner of parcel described in Volume M80 page 18938, Microfilm Records of Klamath County, Oregon; thence N. 89°55'10" W. along the North line of said parcel, 250.0 feet to the Northeast corner thereof; thence S. 0°04'50" W., 175.00 feet to the Southwest corner thereof; thence N. 89°55'10" W. a distance of 210.0 feet to the point of beginning.

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EXHIBIT "A"

SAVING AND INTERESTING A parcel of land situated in Lots 2 and 3, Block 2, Tract 1080, Washburn Park, a duly recorded subdivision in Klamath County, Oregon, said parcel being more particularly described as follows: Beginning at the Southwest corner of said Lot 3; thence N. 89°56'30" W. 100.00 feet; thence N. 00°03'30" E. 295.29 feet to a point on the Northerly line of said Lot 2; thence N. 89°41'49" E., along said Northerly line, 57.69 feet to a point on the Northerly right of way line of Meyerhaeuser Timber Company Railroad (formerly O.C.&E.); thence along said right of way line S. 66°51'15" E. 103.62 feet; thence westerly, along the arc of a curve to the left (radius point bears S. 01°42'25" W. 356.28 feet, central angle = 08°32'26") 53.11 feet to a point on the North-South line common to said Lots 2 and 3; thence S. 00°03'30" W. 252.59 feet to the point of beginning, containing 29,805 square feet, with bearings based on said Tract 1080, Washburn Park.

PARTIAL 3:

A Block of land situated in the NE 1/4, Section 4, Township 39 S., R. 9 E.W.M., more particularly described as follows:

Beginning at the southeasterly corner of that tract of land described in Deed Volume 175 page 11116, Klamath County Deed Records, said point being S. 71°03'44" W. 562.46 feet from the East quarter corner of said Section 4; thence N. 00°06'43" W. along the East line of said tract, 708.91 feet to the intersection with the westerly boundary of Tract 1080, Washburn Park, a duly recorded subdivision; thence southerly along said westerly boundary on a curve to the right (radius point bears S. 65°23'16" W. 440.00 feet and central angle equals 14°40'14") 189.46 feet, S. 00°03'30" W. 401.08 feet, S. 00°04'50" W. 408.17 feet to the Southwest corner of Lot 1, Block 2, said Tract 1080; thence along the arc of a curve to the right (radius point bears N. 00°04'50" E. 27.14 feet and central angle equals 119°48'27") 42.54 feet; thence N. 00°06'43" W. 230.17 feet; thence S. 89°53'17" W. 10.00 feet to the point of beginning, containing 32,925 square feet, with bearings based on said Tract 1080.

PARTIAL 4:

A parcel of land situated in Lots 2 and 3, Block 2, Tract 1080, Washburn Park, a duly recorded subdivision in Klamath County, Oregon, said parcel being more particularly described as follows: Beginning at the Southwest corner of said Lot 3; thence N. 89°56'30" W. 100.00 feet; thence N. 00°03'30" E. 295.29 feet to a point on the Northerly line of said Lot 2; thence N. 89°41'49" E., along said Northerly line, 57.69 feet to a point on the Southerly right of way line of Meyerhaeuser Timber Company Railroad (formerly O.C.&E.); thence along said right of way line S. 66°51'15" E. 103.62 feet; thence westerly, along the arc of a curve to the left (radius point bears S. 01°42'25" W. 356.28 feet, central angle = 08°32'26") 53.11 feet to a point on the North-South line common to said Lots 2 and 3; thence S. 00°03'30" W. 252.59 feet to the point of beginning, containing 29,805 square feet, with bearings based on said Tract 1080, Washburn Park.

STATE OF OREGON, COUNTY OF KLAMATH ss.

Filed for record at request of \_\_\_\_\_ the \_\_\_\_\_ 20th day of \_\_\_\_\_ A.D. 19\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_\_ M., and duly recorded in Vol. \_\_\_\_\_ of \_\_\_\_\_ No. \_\_\_\_\_ on Page \_\_\_\_\_

FEE \$21.00

By \_\_\_\_\_  
Brylyn Biehn,  
County Clerk

\_\_\_\_\_