

**MORTGAGE**

Borrower: Milton O. Brown ATC 30196  
Raymond J. Kittleson  
Patricia N. Kittleson  
**66230**

Lender: Canadian Imperial Bank of Commerce  
315 SW 5th Avenue  
Portland, OR

Borrower is the owner of the following-described real property located in the counties of Washington, Klamath  
 and the State of Oregon (the "Real Property") and Multnomah

See Parcels I-IV on Exhibit "A" attached  
 hereto and incorporated by this reference

Milton O. Brown and  
 Raymond J. Kittleson  
 as joint obligors

Borrower has agreed to offer the Real Property in support of an obligation of ☐ Borrower ☒ per attached Exhibit B  
 ("Obligor") in the principal amount of \$ 1,064,853.43 on certain terms and conditions. The indebtedness will be  
 evidenced by a promissory note or notes or other credit agreement which, with any notes or other agreement given in renewal of  
 or substitution for the notes originally issued, are called "the Notes." The Notes will mature not later than February 15, 1987

The term "Indebtedness" as used in this Mortgage shall mean all principal and interest payable under the Notes and any amounts  
 expended or advanced by Lender to discharge obligations of Borrower and expenses incurred by Lender to enforce obligations of  
 Borrower hereunder, as permitted under this Mortgage, together with interest thereon as provided herein.

The "Related Documents", which are executed in connection with this Mortgage, shall mean that certain (check which applies)

- ☐ loan agreement dated \_\_\_\_\_  
☐ security agreement(s) dated \_\_\_\_\_  
☐ other: (specify) \_\_\_\_\_

To secure payment of the Indebtedness with interest thereon in strict accordance with the terms of the Notes, or any other agree-  
 ments evidencing part of the Indebtedness, and to secure performance by Borrower of the covenants contained in this Mortgage  
 and Related Documents, Borrower mortgages and conveys to Lender the Real Property with all appurtenances, all existing or  
 future improvements, all rights relating to the Real Property (including minerals, oil, gas, water, and the like), and all ditch rights  
 (including stock in entities with ditch or irrigation rights). Borrower presently assigns to Lender all of Borrower's right, title, and  
 interest in and to all rents, revenue, income, issues, and profits ("Income") from the Real Property described above. Borrower  
 grants Lender a Uniform Commercial Code security interest in the Income and in all equipment, fixtures, furnishings, and other  
 articles of personal property owned by Borrower, now or subsequently attached or affixed to the Real Property described above.  
 together with all accessions, parts, or additions to, or replacements of, and all substitutions for any such property, and together  
 with all proceeds (including insurance proceeds and refunds of premiums) from any sale or other disposition, (the "Personal  
 Property"). The Real Property and Personal Property are collectively referred to as the "Mortgaged Property."

(Check if applicable): ☐ There is a mobile home on the Real Property, which is covered by this security instrument, and which is  
 and shall remain (check one): ☐ Personal Property. ☐ Real Property.

The term "Borrower" is used in this Mortgage for convenience of the parties, and use of that term shall not affect the liability of  
 any such Borrower on the Note. Any Borrower who co-signs this Mortgage, but does not execute the Note:

- (a) is co-signing this Mortgage only to grant and convey that Borrower's interest in the Real Property to Lender under the  
 terms of this Mortgage;  
 (b) is not personally liable under the Note except as otherwise provided by law or contract; and  
 (c) agrees that Lender and any other Borrower hereunder may agree to extend, modify, forbear, or make any other  
 accommodations or amendments with regard to the terms of this Mortgage or the Note, without that Borrower's consent  
 and without releasing that Borrower or modifying this Mortgage as to that Borrower's interest in the Real Property.  
 (d) acknowledges that Lender would not have entered into the lending relationship relating to the Indebtedness except for  
 reliance upon all of the obligations of all of the Borrowers under this Mortgage.

(Check if applicable): ☐ This Mortgage supports a revolving line of credit, which obligates Lender to make advances to Bor-  
 rower (or Obligor) so long as Borrower (or Obligor) complies with the terms of the credit agreement.  
☐ Indebtedness, as defined above, includes, in addition to the principal amount specified above, any  
 future amounts that Lender may in its discretion loan to Borrower (or Obligor), together with interest  
 thereon.

This Mortgage, including the assignment of Income and the security interest, is given to secure payment of the Indebtedness and  
 performance of all obligations of Borrowers under this Mortgage and is given and accepted on the following terms and conditions:

**TERMS AND CONDITIONS**

- Payment and Performance.** Except as provided above, Borrower will pay to Lender promptly when due all amounts secured by this Mortgage and will  
 strictly perform all obligations imposed upon Borrower by this Mortgage.
- Possession and Maintenance of Property.**
  - 2.1 Possession.** Until in default, Borrower may remain in possession and control of and operate and manage the Mortgaged Property and collect the  
 rents, revenues, income, issues, and profits.
  - 2.2 Duty to Maintain.** Borrower shall maintain the Mortgaged Property in first class condition and promptly perform all repairs and maintenance  
 necessary to preserve its value.
  - 2.3 Waste; Nuisance.** Borrower shall neither conduct or permit any nuisance nor commit or suffer any strip or waste on the Mortgaged Property or any  
 portion thereof, including without limitation, removal or alienation by Borrower of the right to remove any timber, minerals (including oil and gas), or gravel  
 or rock products.
  - 2.4 Removal of Improvements.** Borrower shall not demolish or remove any Improvements from the Mortgaged Property without the prior written con-  
 sent of Lender, which will not be withheld if Borrower makes arrangements satisfactory to Lender to replace any Improvement which Borrower proposes to  
 remove with one of at least equal value. "Improvements" shall include all existing and future buildings, structures, and parking facilities.
  - 2.5 Lender's Right to Enter.** Lender and its agents and representatives may enter upon the Mortgaged Property at all reasonable times to attend to  
 Lender's interest and inspect the Mortgaged Property.
  - 2.6 Compliance With Governmental Regulations.** Borrower shall promptly comply with all laws, ordinances, and regulations of all governmental  
 authorities applicable to the use or occupancy of the Mortgaged Property. Borrower may contest in good faith any such law, ordinance, or regulation and  
 withhold compliance during any proceeding, including appropriate appeals, so long as Borrower has notified Lender in writing prior to doing so and  
 Lender's interest in the Mortgaged Property is not jeopardized. Lender may require Borrower to post adequate security (reasonably satisfactory to Lender)  
 to protect Lender's interest.
  - 2.7 Duty to Protect.** Borrower shall do all other acts, in addition to those set forth in this section, that from the character and the use of the Mortgaged  
 Property are reasonably necessary to protect and preserve the security.

86 SEP 22 PM 3 28

### 3. Taxes and Liens.

**3.1 Payment.** Borrower shall pay when due all taxes and assessments against the Mortgaged Property and all claims and demands arising from Borrower's use or occupancy of the Mortgaged Property. Borrower shall pay when due before they become delinquent, all taxes and assessments levied against or on account of the Mortgaged Property, and shall pay when due all claims for work done on or for services rendered or material furnished to the Mortgaged Property.

**3.2 Protection of the Mortgaged Property.** Borrower shall not permit any lien prior or equal to the lien of this Mortgage to be imposed upon the Mortgaged Property, except for the lien of taxes and assessments not due, except for the prior indebtedness referred to in Section 12 and except as otherwise provided in Section 3.3.

**3.3 Borrower's Right To Contest.** Borrower may withhold payment of any taxes, assessments, claims, or demands, or may elect to contest any lien if Borrower is in good faith conducting appropriate proceedings to contest the obligation to pay and so long as Lender's interest in the Mortgaged Property is not jeopardized. If the Mortgaged Property is subject to a lien which is not discharged within 15 days after the lien arises or, if a lien is filed, within 15 days after Borrower has notice of the filing, Borrower shall deposit with Lender cash, a sufficient corporate surety bond, or other security satisfactory to Lender in an amount adequate to provide for the discharge of the lien plus any interest, costs, or attorneys' fees or other charges that could accrue as a result of foreclosure or sale. In any contest Borrower shall defend itself and Lender and shall satisfy any final adverse judgment before enforcement against the Mortgaged Property. Borrower shall name Lender as an additional obligee under any surety bond furnished in the contest proceedings.

**3.4 Evidence of Payments of Taxes or Assessments.** Borrower shall upon demand furnish to Lender evidence of payment of the taxes or assessments and shall authorize the appropriate county official to deliver to Lender at any time a written statement of the taxes and assessments against the Mortgaged Property.

**3.5 Tax Reserves.** Subject to any limitations set by applicable law, Lender may require Borrower to maintain with Lender reserves for payment of taxes and assessments, which reserves shall be created by advance payment or monthly payments of a sum estimated by Lender to be sufficient to produce, at least 15 days before due, amounts at least equal to the taxes and assessments to be paid. If 15 days before payment is due the reserve funds are insufficient, Borrower shall upon demand pay any deficiency to Lender. The reserve funds shall be held by Lender as a general deposit from Borrower and shall constitute a noninterest-bearing debt from Lender to Borrower, which Lender may satisfy by payment of the taxes and assessments required to be paid by Borrower as they become due. Lender does not hold the reserve funds in trust for Borrower, and Lender is not the agent of Borrower for payment of the taxes and assessments required to be paid by Borrower.

**3.6 Notice to Lender.** Borrower shall notify Lender at least 15 days before the commencement of any work, the furnishing of any services, or the supplying of any materials to the Mortgaged Property, the cost of which is to exceed \$5,000 (if the Real Property is used for nonresidential or commercial purposes or \$1,000 if the Real Property is used as a residence), and the nature of which is such that a construction lien might be asserted on account of the work, services, or materials. Borrower will on request furnish to Lender advance assurances satisfactory to Lender that it can and will pay the costs of such Improvements.

### 4. Warranties of Borrower.

**4.1 Title.** Borrower warrants that Borrower holds merchantable title to the Mortgaged Property in fee simple, free of all encumbrances other than those enumerated in the title policy or report, if any, issued for the benefit of the Lender in connection with this transaction and accepted by the Lender or as set forth in Section 12.

**4.2 Defense of Title.** Subject to the exceptions in the paragraph above, Borrower warrants and will forever defend the title against the lawful claims of all persons. In the event any action or proceeding is commenced that questions Borrower's title or the interest of the Lender under this Mortgage, Borrower shall defend the action at Borrower's expense.

**4.3 Compliance with Laws.** Borrower warrants that its use of the Mortgaged Property complies with all existing applicable laws, ordinances, and regulations of governmental authorities.

### 5. Casualty Insurance.

**5.1 Maintenance of Casualty Insurance.** Borrower shall procure and maintain policies of fire insurance with standard extended coverage endorsements on a replacement basis for the full insurance value basis covering all Improvements on the Mortgaged Property in an amount sufficient to avoid application of any coinsurance clause and with Borrower's loss payable clause in favor of Lender. Policies shall be written by such insurance companies and in such form as may be reasonably acceptable to Lender. Borrower shall deliver to Lender certificates of coverage from each insurer containing a stipulation that coverage will not be cancelled or diminished without a minimum of 10 days' prior written notice to Lender.

**5.2 Borrower's Report on Insurance.** If the Mortgaged Property is not used as Borrower's residence, Borrower shall furnish to Lender within 60 days after the close of its fiscal year, a report on each existing policy of insurance showing:

- the name of the insurer;
- the risks insured;
- the amount of the policy;
- the property insured, the then current replacement value of the property, and the manner of determining that cost; and
- the expiration date of the policy.

Borrower shall upon request have an independent appraiser satisfactory to Lender determine the replacement value of the Mortgaged Property at Borrower's expense.

**5.3 Application of Proceeds.** Borrower shall promptly notify Lender of any loss or damage to the Mortgaged Property. Lender may make proof of loss if Borrower fails to do so within 15 days of the casualty. Lender may, at its election, apply the proceeds to the reduction of the indebtedness or the restoration and repair of the Mortgaged Property. If Lender elects to apply the proceeds to restoration and repair, Borrower shall repair and/or replace the damaged or destroyed Improvements in a manner satisfactory to Lender. Lender shall, upon satisfactory proof of such expenditure, pay or reimburse Borrower from the proceeds for the reasonable cost of repair or restoration if Borrower is not in default hereunder. Any proceeds which have not been paid within 180 days after their receipt and which Borrower has not committed to the repair or restoration of the Mortgaged Property shall be used to prepay first accrued interest and then principal of Borrower's indebtedness. If Lender holds any proceeds after payment in full of the indebtedness, such proceeds shall be paid to the Borrower.

**5.4 Insurance Reserves.** Subject to any limitations set by applicable law, Lender may require Borrower to maintain with Lender reserves for payment of insurance premiums, which reserves shall be created by monthly payments of a sum estimated by Lender to be sufficient to produce, at least 15 days before due, amounts at least equal to the insurance premiums to be paid. If 15 days before payment is due the reserve funds are insufficient, Borrower shall upon demand pay any deficiency to Lender. The reserve funds shall be held by Lender as a general deposit from Borrower and shall constitute a noninterest-bearing debt from Lender to Borrower, which Lender may satisfy by payment of the insurance premiums required to be paid by Borrower as they become due. Lender does not hold the reserve funds in trust for Borrower, and Lender is not the agent of Borrower for payment of the insurance premiums required to be paid by Borrower.

### 6. Imposition of Tax by State.

**6.1 State Taxes Covered.** This section shall apply to the following state taxes:

- A specific tax on mortgages or any part of the indebtedness secured by a mortgage or security agreement.
- A specific tax on the owner of mortgaged property which the taxpayer is authorized or required to deduct from payments on the mortgage.
- A tax on mortgaged property chargeable against the mortgagee or holder of the note secured by the mortgage.
- A specific tax on all or any portion of the indebtedness or on payments of principal and interest made by mortgagors.

**6.2 Effect of Taxes.** If any state tax to which this section applies is enacted after the date of this Mortgage, this shall constitute an event of default unless the following conditions are met:

- Borrower may lawfully pay the tax or charge imposed by the state tax, and
- Borrower pays or offers to pay the tax or charge within 30 days after notice from Lender that the tax law has been enacted.

**7. Construction Loan.** If some or all of the proceeds of the loan creating the indebtedness is to be used to construct or complete construction of any Improvements on the Mortgaged Property, the Improvements shall be completed within six (6) months from the date of this Mortgage and security agreement and Borrower shall pay all costs and expenses in connection with the work. Lender, at its option, may disburse loan proceeds under such terms and conditions as Lender may deem necessary to insure that the lien of this Mortgage shall have priority over all possible liens, including those of material suppliers and workmen. Lender may require, among other things, that disbursement requests be supported by receipted bills, expense affidavits, waivers of liens, construction progress reports, and such other documentation as Lender may reasonably request.

**8. Due on Sale. Consent by Lender.** Lender may, at its option declare immediately due and payable all sums secured by this Mortgage upon the sale or transfer of all or any part of the Real Property without the Lender's prior written consent. A "sale or transfer" means the conveyance of the Real Property or any right, title, or interest therein, whether legal or equitable, whether voluntary or involuntary, by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than three years, lease option contract, or any other method of conveyance of real property interests. If Borrower is a corporation, "transfer" also includes any change in ownership of more than 25 percent of the voting stock of Borrower. If Borrower or any prospective transferee applies to a transfer, Lender may require such information concerning the prospective transferee as would normally be required from the new loan applicant. Consent by lender to one transfer shall not constitute consent to other transfers or a waiver of this section.

### 9. Events of Default.

The following shall constitute events of default:

- Failure of Borrower or Obligor to make any payment required under the Notes when due.
- Failure of Borrower to make any payment required under this Mortgage when due.
- Failure of Borrower to perform any other obligation contained in this Mortgage if:
  - Lender has sent to Borrower a written notice of the failure and the failure has not been cured within 15 days, or
  - Borrower has given notice of a breach of the same provisions of this Mortgage within the preceding 12 months.
- Failure of Borrower within the time required by this Mortgage to make any payment for taxes, insurance, or for any other payment necessary to prevent filing of or to effect discharge of any lien.
- Dissolution or termination of existence (if Borrower is a corporation), insolvency, business failure, appointment of a receiver for any part of the property of, assignment for the benefit of creditor by, the commencement of any proceeding under any bankruptcy or insolvency laws by or against, or failure to obtain dismissal or deny the contents of any petition filed under any bankruptcy or insolvency laws within the time required to answer by, Borrower or any of the individuals or entities who are herein collectively referred to as "Borrower."

- (f) Default of Borrower under any prior obligation or instrument securing any prior obligation, or commencement of any suit or other action to foreclose any prior lien.
- (g) If the Real Property has been submitted to unit ownership pursuant to a unit ownership law or any similar law, failure of Borrower to perform any of the obligations imposed on Borrower by the declaration submitting the Real Property to unit ownership, by the bylaws of the association of unit owners, or by any rules or regulations thereunder. If Borrower's interest in the Real Property is a leasehold interest and such property has been submitted to unit ownership, any failure of Borrower to perform any of the obligations imposed on him by the lease of the Real Property from its owner, any default from such lease which might result in termination of the lease as it pertains to the Real Property, or any failure of Borrower, as a member of an association of unit owners, to take any reasonable action within Borrower's power to prevent a default under such lease by the association of unit owners or by any member of the association.
- (h) If the interest of Borrower in the Real Property is a leasehold interest, and a default by Borrower under the terms of the lease, or any other event (whether or not the fault of Borrower) results in the termination of Borrower's leasehold rights.
- (i) Any breach by Borrower under the terms of any other agreement between Borrower and Lender that is not remedied within any grace period provided therein, including without limitation any agreement concerning any indebtedness of Borrower to Lender, whether made now or later.
- (j) If Lender reasonably deems itself insecure.

#### 10. Rights and Remedies on Default.

**10.1 Remedies.** Upon the occurrence of any event of default and at any time thereafter, Lender may exercise any one or more of the following rights and remedies in addition to any other remedy which may be available at law, in equity, or otherwise:

- (a) Lender may declare the entire amount owed by Borrower and/or Obligor, including any prepayment penalty which is required to be paid, immediately due and payable.
- (b) Lender may have a receiver appointed as a matter of right or may exercise all rights of a receiver as a lender-in-possession.
- (c) Lender may, either through a receiver or as a lender-in-possession, take possession of all or any part of the Mortgaged Property, which shall be peaceably surrendered by Borrower.
- (d) Lender shall have the right without notice to Borrower, to take possession of the Mortgaged Property and collect the Income, including amounts past due and unpaid, and apply the net proceeds over and above Lender's costs, against the Indebtedness. In furtherance of this right, Lender may require any tenant or other user to make payments of rent or use fees directly to Lender. If Income is collected by Lender, then Borrower irrevocably designates Lender as Borrower's attorney in fact to endorse instruments received in payment thereof in the name of Borrower and to negotiate the same and collect the proceeds. Payments by tenants or other users to Lender in response to Lender's demand shall satisfy the obligation for which the payments are made, whether or not any proper grounds for the demand existed. Lender may exercise its rights under this subparagraph either personally, by agent, or through a receiver.
- (e) Lender may obtain a decree foreclosing Borrower's interest in all or any part of the Mortgaged Property.
- (f) If permitted by applicable law, Lender may foreclose Borrower's interest in all or any part of the Mortgaged Property by nonjudicial sale.
- (g) If permitted by applicable law, Lender may obtain a judgment for any deficiency remaining in the Indebtedness due to Lender after application of all amounts received from the exercise of the rights provided in this section.
- (h) With respect to any part of the Mortgaged Property that is Personal Property, Lender may exercise the rights and remedies of a secured party under the Uniform Commercial Code of the state in which the Personal Property is located.

**10.2 Receiver.** Lender shall be entitled to the appointment of a receiver as a matter of right whether or not the apparent value of the Mortgaged Property exceeds the amount of the Indebtedness, and any receiver appointed may serve without bond. Employment by Lender shall not disqualify a person from serving as receiver.

**10.3 Rights of Receiver or Lender-in-Possession.** Upon taking possession of all or any part of the Mortgaged Property the receiver or Lender may:

- (a) Use, operate, manage, control, and conduct business on the Mortgaged Property and make expenditures for all maintenance and improvements as in its judgment are proper;
- (b) Collect all rents, revenues, income, issues, and profits from the Mortgaged Property and apply such sums to the expenses of use, operation, and management;
- (c) At Lender's option, complete any construction in progress on the Mortgaged Property, and in that connection pay bills, borrow funds, employ contractors and make any changes in plans or specifications as Lender deems appropriate.

If the revenues produced by the Mortgaged Property are insufficient to pay expenses, the receiver may borrow, from Lender or otherwise, or Lender may borrow or advance such sums as it deems necessary for the purposes stated in this paragraph, and repayment of such sums shall be secured by this Mortgage. The amounts borrowed or advanced shall bear interest at the highest rate then being charged on any of the Indebtedness from the date of expenditure until repaid and shall be payable by Borrower on demand.

**10.4 Manner of Nonjudicial Sale.** In exercising the remedies provided in paragraphs 10.1(f) and (h), Lender may sell all or any part of the Mortgaged Property as a whole or in parcels. Lender may bid at any public sale on all or any portion of the Mortgaged Property. Lender shall give Borrower reasonable notice of the time and place of any public sale or of the time after which any private sale or other disposition of the Mortgaged Property is to be made, and notice given at least 10 days prior to the time of the sale or other disposition shall be conclusively presumed to be reasonable. A public sale conducted in the following fashion shall be conclusively presumed to be reasonable if:

- (a) Notice is given at least 10 days prior to the date of sale by publication once in a newspaper of general circulation published in the county in which the sale is to be held;
- (b) The sale is held in a county in which the Mortgaged Property or any part is located or in a county in which Borrower has a place of business;
- (c) Payment is required to be in cash or by certified check immediately following the close of the sale, except that if Lender bids it need not actually make payment;
- (d) The sale is by auction, but it need not be by a professional auctioneer;
- (e) The Mortgaged Property is sold as is and without any preparation for sale by Lender.

**10.5 Election of Remedies.** Election by Lender to pursue one remedy shall not exclude resort to any other remedy, and all remedies of Lender under this Mortgage are cumulative and not exclusive. An election to make expenditures or to take action to perform an obligation under paragraph 11.7 shall neither prejudice Lender's right to declare a default nor constitute a waiver of the breached term or of any of the remedies provided in this section.

**10.6 Application of Proceeds from Mortgaged Property.** All proceeds realized from the exercise of Lender's rights and remedies shall be applied as follows:

- (a) To pay the costs of exercising such rights and remedies, including the costs of any sale, the costs of expenses of any receiver or lender-in-possession, and the costs and expenses provided for in paragraph 11.3;
- (b) To pay all amounts owed by Borrower payment of which is secured by this Mortgage;
- (c) The overplus, if any, shall be paid to the clerk of the court in the case of a foreclosure by a judicial proceeding, otherwise to the person or persons legally entitled thereto.

#### 11. Miscellaneous.

**11.1 Notices.** Any notice under this Mortgage shall be in writing. Any notice to be given or document to be delivered under this Mortgage shall be effective when either delivered in person or deposited as registered or certified mail, postage prepaid, addressed to the party at the address specified in this Mortgage. Either party may by written notice to the other designate a different address.

**11.2 Annual Reports.** If the Mortgaged Property is not a single family residence, Borrower shall within 60 days following the close of each fiscal year of Borrower, furnish to Lender a statement of net operating income received from the Mortgaged Property during Borrower's previous fiscal year in such detail as Lender shall require. "Net operating income" shall mean all cash receipts from the Mortgaged Property less all cash expenditures made in connection with the operation of the Mortgaged Property.

**11.3 Attorney Fees; Expenses.** In the event that Lender shall take any action, judicial or otherwise, to enforce the Notes, other portions of the Indebtedness, or any provision of this Mortgage, or if Lender shall be required to appear in any proceeding to protect and maintain the priority of this Mortgage, Lender shall be entitled to recover from Borrower all expenses which it may reasonably incur in taking such action, including but not limited to costs incurred in searching records, the cost of title reports and surveyors' reports, costs of appraisals, and attorneys' fees, whether incurred in a suit or action or appeal from a judgment or decree therein or in connection with any efforts of Lender to collect the Indebtedness or enforce this Mortgage. Borrower shall reimburse Lender for expenses so incurred on demand with interest thereon at the highest rate then being paid on any of the Indebtedness from the date of expenditure until repaid.

**11.4 Waiver, Election of Remedies.** A waiver by any party of a breach of the provision of this Mortgage shall not constitute a waiver of or prejudice the party's rights otherwise to demand strict compliance with that provision or any other provision. Election by Lender to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or take action to perform an obligation of Borrower under this Mortgage after failure of Borrower to perform shall not affect Lender's right to declare a default and exercise its remedies under this Mortgage.

**11.5 Successors and Assigns.** Subject to section 8, this Mortgage shall be binding on and inure to the benefit of the successors and assigns of both Borrower and Lender. If ownership of the Mortgaged Property becomes vested in a person other than Borrower, Lender, without notice to Borrower, may deal with Borrower's successors with reference to this Mortgage and the Indebtedness by way of foreclosure or extension without releasing Borrower from the obligations of this Mortgage or liability under the Indebtedness.

**11.6 Time of Essence.** Time is of the essence of this Mortgage.

**11.7 Lender's Right to Perform Obligations of Borrower.** If Borrower fails to perform any obligation required of it under this Mortgage, Lender without notice may take any steps necessary to remedy such failure. Borrower shall reimburse Lender for all amounts expended in so doing on demand with interest at the highest rate then being paid on any of the Indebtedness from the date of expenditure until repaid. Such action by Lender shall not constitute a waiver of the default or of any other right or remedy which Lender may have on account of Borrower's default.

**11.8 Security Agreement; Financing Statements.** This instrument shall constitute a security agreement under the Uniform Commercial Code with respect to any Personal Property included in the Mortgaged Property and the rents, revenues, income, issues and profits therefrom (the "Collateral"). Upon request by Lender, Borrower shall promptly execute the necessary financing statements in the form required by the Uniform Commercial Code in effect in the state in which the Collateral is located and shall file the statements at Borrower's expense in all public offices where filing is required to perfect security interests of Lender in the Collateral. Lender may, at any time and at its option without further authorization from Borrower, file copies of this instrument as financing statements. Borrower will reimburse Lender for all its expenses incurred in perfecting or continuing this security interest. Upon default Borrower shall, within three days after receipt of written demand from Lender, assemble the Collateral and make it available to Lender at a place designated by Lender.

11.10 **Release on Full Performance.** If Borrower and/or Obligor pays the full indebtedness when due and performs all obligations under this Mortgage, Lender shall, if requested, execute and deliver to Borrower a suitable satisfaction of this Mortgage.

11.11 **Use.** THIS INSTRUMENT DOES NOT GUARANTEE THAT A

THIS INSTRUMENT. A BUYER DOES NOT GUARANTEE THAT ANY PARTICULAR USE MAY BE MADE OF THE PROPERTY DESCRIBED IN 11.12 Applicable Law. This Mortgage has been executed and delivered to Lender and all payments are to be made to Lender at the address where Lender is located shall be acceptable for the purposes of this instrument.

11.13 **Waiver of Homestead.** Borrower waives any rights under homestead or similar laws that

11.14 **Multiple Parties.** If there is more than one Borrower, the obligations of each Borrower shall be several and not joint, and each Borrower shall be obligated to pay the full amount of the obligations of the Borrowers under this Mortgage, and Borrower agrees that the lien of this Mortgage is superior to any homestead exemption or similar laws that may affect the Mortgaged Property, and Borrower agrees

**12.1 Prior Lien.** The lien secures the indebtedness of Borrower and any other Borrower, the obligations imposed upon Borrower under this Mortgage shall be joint and several.

10.1 **Prior Lien.** The lien securing the indebtedness secured by this Mortgage is and remains secondary and inferior to the lien securing payment of a prior obligation in the form of a:

(Check which applies.)

☐ Trust Deed      ☐ Other (Specify) \_\_\_\_\_☐ **Mortgage**

☐ **Land Sale Contract.**

The prior obligation has a current principal balance of not more than \$ \_\_\_\_\_,  
\$ \_\_\_\_\_. Borrower expressly covenants and agrees to pay or see to the payment of the prior indebtedness and to prevent any default  
thereunder.

**12.2 Default.** If the payment of any instalment of principal or any interest on the prior indebtedness is not made within the time required by the note evidencing such indebtedness, or should an event of default occur under the instrument securing such indebtedness and not be cured during any applicable grace period therein, then the Indebtedness secured by this Mortgage shall, at the option of Lender, become immediately due and payable, and this Mortgage shall be in default.

**12.3 No Modification.** Borrower shall not enter into any agreement with the holder of any mortgage, deed of trust, or other security agreement which has priority over this Mortgage by which that agreement is modified, amended, extended, or renewed without the prior written consent of Lender. Borrower shall neither request nor accept any future advances under a prior mortgage, deed of trust, or other security agreement without the prior written consent of Lender. Borrower

X Patricia H. Kittleson Raymond J. Kittleson  
X Raymond J. Kittleson  
Raymond J. Kittleson

STATE OF OREGON )  
County of Multnomah ) ss

On this day personally appeared before me \_\_\_\_\_ Milton O. Brown

to me known to be (or in California personally known to me or proved to me on the basis of satisfactory evidence to be) the individual, or individuals described in and who executed the within and foregoing instrument, and acknowledged that \_\_\_\_\_ he \_\_\_\_\_ signed the same as \_\_\_\_\_ free and voluntary act and deed, for the uses and purposes therein mentioned. Given under my hand and official seal this 05 day of September, 19 86.

BY [Signature]  
Notary Public in and for the state of: OREGON  
Residing at Portland, OR  
My commission expires 1-28-90

STATE OF OREGON )  
County of Multnomah ) ss

County of Multnomah ) ss  
On this day personally appeared before me Raymond J. Kittleson as attorney-in-fact on behalf of  
Patricia Kittleson

to me known to be (or in California personally known to me or proved to me on the basis of satisfactory evidence to be) the individual, or individuals described in and who executed the within and foregoing instrument, and acknowledged that \_\_\_\_\_ he \_\_\_\_\_ signed the same as his \_\_\_\_\_ free and voluntary act and deed, for the uses and purposes therein mentioned. Given under my hand and official seal this 05th day of September, 1986

BY *Stephen M Crandell*  
Notary Public in and for the State of: Oregon  
Residing at Portland, Oregon  
My commission expires 12-27-88

STATE OF OREGON  
County of Multnomah

County of Multnomah ) ss  
On this day personally appeared before me \_\_\_\_\_ Raymond J. Kittleson

to me known to be (or in California personally known to me or proved to me on the basis of satisfactory evidence to be) the individual, or individuals described in and who executed the within and foregoing instrument, and acknowledged that \_\_\_\_\_ he \_\_\_\_\_ signed the same as \_\_\_\_\_ free and voluntary act and deed, for the uses and purposes therein mentioned. Given under my hand and official seal this 5th day of September, 19 86

BY John M. Crandell  
Notary Public in and for the State of Oregon  
Residing at Portland, Oregon  
My commission expires 12-27-88

After Recording Return to:

Mr. Mark R. Wada  
1515 SW 5th Avenue, Suite 770  
Portland, OR 97201

**EXHIBIT "A"****PARCEL I**

The following described real property being a portion of Lot 28, Block "O" of METZGER ACRE TRACTS, and a portion of Lot 10 of HOFFARBER TRACTS, both situated in Section 35, T. 1S., R. 1W., W.M., Washington County, Oregon, to-wit:

Beginning at an iron pipe marking the most southerly corner of Lot 28 of Block "O" of METZGER ACRE TRACTS, said corner also being the southwest corner of the Thomas A. Stott D.L.C., and running thence N. 0°50' E. 354.43 feet along the westerly boundary line of said Lot 28 to an iron rod marking the northwest corner of said Lot 28; thence S. 89°15' E. 161.82 feet along the northerly boundary line of said Lot 28 to an iron rod; thence S. 4°23' E. 82.10 feet to an iron rod; thence N. 71°21' E. 135.15 feet to an iron rod set in the westerly right of way line of State Highway No. 217; thence along said right of way line South 13.5 feet to an iron rod; thence N. 45°00' E. 5.34 feet to an iron rod; thence S. 10°09' E. 64.0 feet to an iron rod; thence S. 62°13' W. 177.39 feet to an iron pipe marking the northwesterly corner of Lot 10 of HOFFARBER TRACTS; thence S. 45°00' W. 224.59 feet along the southeasterly boundary line of said Lot 28 to the point of beginning of this description.

EXCEPTING THEREFROM a portion of Lot 28, Block "O", METZGER ACRE TRACTS, Washington County, Oregon, beginning at the most southerly corner of said Lot 28; thence North 45°0' East along the southerly line of said lot, which is the south line of the T.A. Stott D.L.C., a distance of 50 feet; thence westerly to a point in the west line of said Lot 28 which is 25 feet North of the point of beginning; thence South along said west line 25 feet to the point of beginning.

**PARCEL II**

Lots 5, 6, 7, and 8 in Block 20 Original Townsite of Klamath, in the City of Klamath Falls, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

**PARCEL III**

Lots 7, 8, 9 and 10, Block 25, Rossmere, Portland, Multnomah County, Oregon.

**PARCEL IV**

A tract of land in Section 3, Township 1, South, Range 3 East of the Willamette Meridian, in the city of Gresham, County of Multnomah and State of Oregon described as follows: Beginning at a point on the East line of North Main Avenue, which is 145 feet South of its intersection with the Southerly line of S.E. Burnside Road; thence North along said East line 145 feet to the point of intersection with the Southerly line of S.E. Burnside Road; thence Southeasterly along said Southerly line of S.E. Burnside Road, a distance of 160 feet; thence South parallel with the East line of said North Main Avenue to a point which bears due East from the point of beginning; thence West to the point of beginning, together with an easement for ingress and egress over and across a strip of land twenty (20) feet wide immediately adjacent to the Southerly and Easterly property lines of the hereinabove described parcel as delineated on Exhibit "A" attached hereto and made a part hereof. Kettleberg retains a 25% interest in said easement.

17084

## EXHIBIT "B"

All indebtedness incurred by borrowers Milton O. Brown and Raymond J. Kittleson, as joint obligors, and owed to Canadian Imperial Bank of Commerce including, but not limited to, the following loans:

Account Name	Account/Note Number	Principal
Brown/Nahalem	1040588-9001	293,401.83
1-10-12 Plaza	1040642-9001	215,125
Sports Acres	1040715-9001	233,291
Tigard Plaza	7439504-9006	65,625
Tigard Plaza	7439504-9007	59,526.14
Tigard Plaza	7439504-9008	197,884.46
Total Principal		\$1,064,853.43

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of \_\_\_\_\_  
 of September A.D., 19 86 at 3:28 o'clock P M., and duly recorded in Vol. M86,  
 of Mortgages on Page 17079  
 FEE \$25.00  
 Evelyn Biehn, County Clerk  
 By [Signature]