

84621

MORTGAGE

Vol. M88 Page 2593

MTC-18926K

DATE: February 15, 1988.

PARTIES: KENNETH L. TUTTLE and KAREN L.
TUTTLE, dba Double K. Ranch
Rt. 5 Box 1310 Cove Point
Klamath Falls, OR 97601

MORTGAGOR

WILLIAM A. BARTLETT and CATHERINE
M. BARTLETT, husband and wife,
1276 Lakeshore Drive
Klamath Falls, OR 97601

MORTGAGEE

AGREEMENTS:

SECTION 1. CONVEYANCE

For value received Mortgagor from Mortgagee, Mortgagor hereby mortgages, grants, bargains, sells and conveys to Mortgagee, their successors and assigns, the following-described real property, situated in the County of Klamath, State of Oregon, to-wit:

PARCEL 1. SE $\frac{1}{4}$ of Section 22, Township 33 South, Range 7 $\frac{1}{2}$ East of the Willamette Meridian, EXCEPTING therefrom the SE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 22, ALSO EXCEPTING therefrom that portion conveyed to the State of Oregon by deed dated March 18, 1937, recorded March 25, 1937, in Volume 108, page 287, Deed Records of Klamath County, Oregon, ALSO EXCEPTING therefrom that portion conveyed by the First National Bank of Portland, Testamentary Trustee under the Last Will and Testament of Amy Ryan Zumbrun, also known as Amy L. Zumbrun, deceased, to Fort Klamath Cemetery Association by deed recorded July 29, 1946, in Volume 193, page 127, Deed Records of Klamath County, Oregon, and being described as that portion of the NE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 22 lying South of the Crater Lake Highway, ALSO EXCEPTING therefrom those portions conveyed by deed recorded in Volume 99, page 499, and in Volume 99, page 501, and in Volume 101, page 157, Deed Records of the County of Klamath, State of Oregon, to the State of Oregon.

ALSO, beginning at the iron pin which marks the Southeast corner of the SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 22, Township 33 South, Range 7 $\frac{1}{2}$ East of the Willamette Meridian, and running thence North 89 degrees 32' West along the South line of the SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of said Section 22, a distance of 337.45 feet to an iron pin; thence North 85 degrees 44' East a distance of 338.38 feet to an iron pin; thence South along the

Section line a distance of 27.9 feet, more or less, to the point of beginning, being in the $SE\frac{1}{4}NE\frac{1}{4}SE\frac{1}{4}$ of Section 22, Township 33 South, Range $7\frac{1}{2}$ East of the Willamette Meridian;

ALSO, all that portion of the $SW\frac{1}{4}SW\frac{1}{4}$, $SW\frac{1}{4}NW\frac{1}{4}SW\frac{1}{4}$, $S\frac{1}{2}SE\frac{1}{4}NW\frac{1}{4}SW\frac{1}{4}$, $S\frac{1}{2}N\frac{1}{2}SE\frac{1}{4}NW\frac{1}{4}SW\frac{1}{4}$ of Section 23, Township 33 South, Range $7\frac{1}{2}$ East of the Willamette Meridian lying Westerly and Southwesterly of the Crater Lake Highway #62; ALSO EXCEPTING therefrom that portion conveyed by William Zumbrun, et ux, to Klamath County, in Deed Volume M66, page 7990, dated July 22, 1966, recorded August 8, 1966, Records of Klamath County, Oregon;

ALSO, all that portion of the $NW\frac{1}{4}NW\frac{1}{4}$, and $N\frac{1}{2}N\frac{1}{2}SW\frac{1}{4}NW\frac{1}{4}$ of Section 26, Township 33 South, Range $7\frac{1}{2}$ East of the Willamette Meridian lying Westerly of the Crater Lake Highway #62.

Government Lots 8, 9, 10, 11 and $NE\frac{1}{4}$ and $NW\frac{1}{4}SE\frac{1}{4}$ of Section 27, Township 33 South, Range $7\frac{1}{2}$ East of the Willamette Meridian.

PARCEL 2. All that portion of the $NW\frac{1}{4}NW\frac{1}{4}SW\frac{1}{4}$ of Section 23, Township 33 South, Range $7\frac{1}{2}$ East of the Willamette Meridian, lying Southerly of State Highway 62 as the same is presently located and constructed, and all that portion of the $N\frac{1}{2}N\frac{1}{2}SE\frac{1}{4}NW\frac{1}{4}SW\frac{1}{4}$ of Section 23, Township 33 South, Range $7\frac{1}{2}$ East of the Willamette Meridian, lying Southwesterly of State Highway 62 as the same is presently located and constructed.

PARCEL 3. Section 22, Township 33 South, Range $7\frac{1}{2}$ East of the Willamette Meridian: That portion of the $E\frac{1}{4}W\frac{1}{4}SW\frac{1}{4}NE\frac{1}{4}$ and the $E\frac{1}{4}SW\frac{1}{4}NE\frac{1}{4}$ lying Southwesterly of the Highway. EXCEPTING THEREFROM that parcel of land described in Warranty Deed recorded June 13, 1960, in Deed Volume 322, page 55, Klamath County Deed Records; being the East 510 feet of that portion of the $E\frac{1}{4}W\frac{1}{4}NE\frac{1}{4}$ of said Section lying Southerly of the State Highway. 3307-V2200-0200. Klamath County Tax Accounts #3307-V0000-4900, 3307-V2300-0600, 3307-V2300-0500, and together with the appurtenances now or hereafter belonging to the property, and all the rents, issues and profits arising or to arise therefrom. All property subject to this Mortgage is hereinafter referred to as the mortgaged premises. Until default, Mortgagor may remain in possession of the mortgaged premises and may manage and collect all rents and revenues from the mortgaged premises.

SECTION 2. PURPOSE

This conveyance is intended as a mortgage to secure payment of a loan in the principal amount of Two Hundred Thousand

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and No/100ths (\$200,000.00) DOLLARS, evidenced by the promissory note from Mortgagor to Mortgagee dated February 15, 1988, with a maturity date of February 15, 2003, together with interest payable on the unpaid balance thereof at the rate specified in the Note and to additionally secure the performance and payment by the Mortgagor herein of a certain obligation and mortgage to Obil S. Collman, et ux, dated February 15, 1988, with a maturity date of February 15, 2008, in the principal sum of Eight-Five Thousand and No/100ths (\$85,000.00) DOLLARS, recorded on February 23, 1988 in Volume M-88 at page 2579, Records of Klamath County, Oregon, upon real property conveyed by the Mortgagor to the Mortgagee as a partial down payment upon the real property described in this Mortgage, purchased by the Mortgagor from the Mortgagee. All covenants and provisions of this Mortgage shall bind the successors and assigns of Mortgagor and shall inure to the benefit of the successors and assigns of Mortgagee.

SECTION 3. WARRANTY OF TITLE

At the time of execution and delivery of this Mortgage, Mortgagor is the owner of the mortgaged premises in fee simple, under a purchase money arrangement with the Mortgagee and the mortgaged premises are free and clear of liens and encumbrances.

SECTION 4. PAYMENT AND PERFORMANCE

Mortgagor will pay, when due, the indebtedness secured by this Mortgage in accordance with the terms thereof. Mortgagor will strictly perform all obligations of this Mortgage and of the Note and Mortgage to Obil S. Collman, et ux, as herein above described. Mortgagor will promptly comply with all existing or future laws, orders and regulations of all state, federal, municipal and local governments or any similar bodies affecting the mortgaged premises or their use.

SECTION 5. CHARGES AGAINST MORTGAGED PREMISES

5.1 Taxes and Utilities. Mortgagor will pay when due all taxes, assessments, water and other charges for utility services that may be levied, assessed or charged upon or against the mortgaged premises, or any part thereof. Upon request, Mortgagor shall deliver to Mortgagee evidence of payment of the taxes, assessments or other charges.

5.2 Liens and Encumbrances. Mortgagor will promptly pay and satisfy any construction liens or other encumbrances that might by operation of law or otherwise become a lien upon the mortgaged premises, whether or not superior to the lien of this Mortgage. Mortgagor may withhold payment of any claim in connection with a good-faith dispute over the obligation to pay, so long as Mortgagee's property interests are not jeopardized. If a lien is filed as a result of nonpayment, Mortgagor shall,

within ten (10) days after knowledge of the filing, secure the discharge of the lien, or deposit with Mortgagee cash or a sufficient corporate surety bond or other security satisfactory to Mortgagee in an amount sufficient to discharge the lien plus any costs, attorney fees and other charges that could accrue as a result of a foreclosure or sale under the lien.

5.3 Failure to Pay. In case of default in payment of any charges Mortgagee is required to pay pursuant to this Mortgage, Mortgagee, their successors and assigns, may at their option pay any charges, taxes and/or assessments due or claimed to be due; and any amounts so paid by Mortgagee shall become part of the principal debt; and amounts so paid by Mortgagee shall bear interest at the rate of 12% from the date of payment.

SECTION 6. CONDITION OF MORTGAGED PREMISES

6.1 Repairs and Maintenance. Mortgagor will keep all improvements erected on the mortgaged premises in good order and repair.

6.2 First-Class Condition. Mortgagor will maintain the mortgaged premises in first-class condition.

6.3 Waste. Mortgagor will not permit waste of the mortgaged premises or do or suffer anything to be done to depreciate or impair the value of the mortgaged premises during the life of this Mortgage.

6.4 Changes and Alterations. Mortgagor will not make any changes in or alterations to the improvements on the mortgaged premises which will materially decrease the value of the same. Before making any changes in or alterations to the improvements, Mortgagor shall give notice to Mortgagee of the nature and extent of the changes or alterations and shall provide evidence of Mortgagor's ability to finance the changes or alterations.

6.5 Right of Inspection. Mortgagee shall have the right to enter upon the mortgaged premises at all reasonable times to determine Mortgagor's compliance with this Mortgage.

SECTION 7. DEFAULT

7.1 Events of Default. The occurrence of any one or more of the following events shall constitute a default hereunder (a Default):

- (a) Mortgagor's default in the timely payment of any indebtedness to Mortgagee when due;
- (b) Mortgagor's failure to perform or observe all the provisions of this Mortgage;

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(c) The happening of an event of default under the Note or Mortgage to Obil S. Collman, et ux, as herein above described.

(d) Mortgagor's insolvency or inability to pay their debts as they mature or Mortgagor's assignment for the benefit of creditors or filing of a voluntary petition in bankruptcy, or a voluntary petition seeking reorganization, or effecting a plan or other arrangement with creditors, or filing an answer consenting to or taking any other action indicating acquiescence in any involuntary petition pursuant to, or purporting to be pursuant to, any bankruptcy, reorganization or insolvency laws of any jurisdiction, or adjudication of Mortgagor as bankrupt or insolvent by a court of competent jurisdiction or appointment of a receiver for any substantial portion of Mortgagor's property.

7.2 Remedies on Default. If any default occurs, Mortgagee may, at their option, declare the entire unpaid balance of principal and accrued interest secured by this Mortgage immediately due and payable, together with any prepayment penalties imposed by any agreement or security agreement between Mortgagor and Mortgagee, and foreclosure proceedings may be immediately commenced. All rights and remedies of Mortgagee shall be cumulative and nonexclusive and in addition to any other right or remedy contained in this Mortgage or otherwise available under applicable law. The failure of Mortgagee to exercise any option given hereunder shall not be taken or deemed a waiver of their right to exercise their option as to any past or subsequent violation of any covenants or stipulations.

SECTION 8. ATTORNEY FEES AND OTHER COSTS

In the event suit or action is begun to foreclose this Mortgage, Mortgagor will pay, in addition to the costs and disbursements allowed by law, such sum as the Court may adjudge reasonable attorney fees in such suit or action or upon any appeal or petition for review. Mortgagor will also pay such sum as the Court may adjudge reasonable for the necessary examination and search of the public records respecting the title to the mortgaged premises. The Plaintiff in such suit or action may take judgment therein for such sums. Mortgagor will pay to Mortgagee all sums, including costs, expenses and reasonable agent and attorney fees, which Mortgagee may expend or become obligated for in any proceedings, legal or otherwise, involving the title to the mortgaged premises, or to establish, protect or sustain the lien of this Mortgage, or its priority, or in defending against liens, claims, rights, estates, easements or restrictions, or for evidences of title to the mortgaged premises. Interest shall be paid to Mortgagee on all such sums at the rate then payable on the indebtedness secured hereby. This Mortgage shall stand as security for payment of these sums and interest in like manner and effect as for payment of the indebtedness secured.

SECTION 9. CONDEMNATION

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If the mortgaged premises, or any part thereof, are condemned under any power of eminent domain or acquired for public use, the damages, proceeds, and the consideration for such acquisition, to the extent of the full amount of the indebtedness secured by this Mortgage, including any expenses and attorney fees incurred by Mortgagee on account of such condemnation, are hereby assigned by Mortgagor to Mortgagee and shall be paid forthwith to Mortgagee to be applied by it to the payment of such expenses and attorney fees and any balance on account of the last maturing portion of the indebtedness secured hereby.

SECTION 10. MISCELLANEOUS

10.1 Terminology. The word "Mortgagor" and the language of this instrument 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.

10.2 Nonwaiver. No condition of this Mortgage shall be deemed waived unless expressly waived in writing by Mortgagee.

10.3 Notices. Whenever any notice, demand or request is required by the terms of this Mortgage or by any law now in existence or hereafter enacted, the notice, demand or request shall be sufficient if enclosed in a postpaid envelope addressed to Mortgagor at the last address actually furnished to Mortgagee, or at the mortgaged premises, and deposited in any post office station or letter box.

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

10.5 Applicable Law. This Mortgage shall be governed by the law of the State of Oregon, and any question arising hereunder shall be construed or determined according to such law.

The parties have executed this agreement as of the date first written above.

DOUBLE K RANCH

By: Kenneth L. Tuttle
Kenneth L. Tuttle

By: Karen L. Tuttle
Karen L. Tuttle

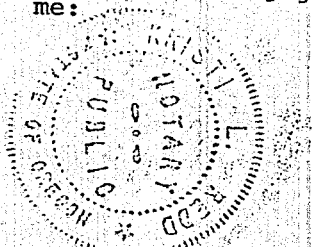
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STATE OF OREGON)

County of Klamath)

ss. February 17, 1988

Personally appeared the above-named KENNETH L. TUTTLE and KAREN L. TUTTLE, dba DOUBLE K RANCH, and acknowledged the foregoing Mortgage to be their voluntary act and deed. Before me:



Kristi L. Redd
 Notary Public for Oregon
 My Commission expires: 11/16/91

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Mountain Title Company the 23rd day
 of February A.D., 19 88 at 2:31 o'clock P M., and duly recorded in Vol. M88
 of Mortgages on Page 2593

FEE \$35.00

Evelyn Biehn, County Clerk
 By *Pam Smith*

AFTER RECORDING RETURN TO:

Brandsness, Brandsness & Davis, P.C.
 411 Pine Street
 Klamath Falls, OR 97601

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 88-02-03c (MP18)