

After recording return to:  
HERSHNER, HUNTER, MOULTON  
ANDREWS & NEILL  
P.O. Box 1475  
Eugene, Oregon 97440

TRUST DEED

PARTIES:

DONALD R. MANNING and LILLIAN V. MANNING, husband and wife,  
(Grantor)

KLAMATH COUNTY TITLE COMPANY, an Oregon corporation,  
(Trustee)

UNITED STATES NATIONAL BANK OF OREGON, a national banking  
association, (Beneficiary)

AGREEMENTS:

Grantor hereby irrevocably grants, bargains, sells and conveys to Trustee, in trust, for Beneficiary, with power of sale, the real property described on the attached Exhibit A and all interest therein which the Grantor may hereafter acquire; and all buildings, improvements, fixtures or appurtenances now or hereafter erected thereon or used in connection with the property, including, but not limited to, all apparatus, equipment, fixtures or articles whether in single units or centrally controlled, used to supply heat, gas, air conditioning, water, light, power, refrigeration, ventilation, or other services; and all built-in-appliances, and any other thing now or hereafter therein or thereon, the furnishing of which by lessors to lessees is customary or appropriate, including screens, window shades, storm doors and windows, floor coverings, screen doors, awnings, tanks, shrubbery, trees, stoves and water heaters; all of which are intended to be and are hereby declared a part of real estate whether physically attached thereto or not; and all easements, water rights, and other rights or privileges now or hereafter appurtenant to the land, and all of the rents, issues, and profits of the premises, which are hereby pledged, assigned and transferred to the Trustee, whether now due or hereafter to become due (hereinafter referred to as the property).

1. This Trust Deed is to secure payment of the following obligations (Obligations) of the Grantor to the Beneficiary:

a. Instalment Note dated August 22, 1984, payable to the order of the Beneficiary in the face amount of Sixty-eight Thousand Dollars (\$68,000), executed by the Grantor.

b. Optional Advance Note dated March 17, 1986, payable to the order of the Beneficiary in the face amount of Five Hundred Eleven Thousand One Hundred Thirty-three Dollars (\$511,133), executed by the Grantor, Manning Farms and Donna Manning.

c. Optional Advance Note dated March 17, 1986, payable to the order of the Beneficiary in the face amount of Four Hundred Sixty-three Thousand Four Hundred Eighty-five Dollars (\$463,485), executed by the Grantor and Manning Farms.

d. Promissory Note dated March 17, 1986, payable to the order of the Beneficiary in the face amount of One Hundred Seventy-five Thousand Dollars (\$175,000), executed by the Grantor, Manning Farms, Robert M. Manning and Donna R. Manning.

e. The principal amount of Two Hundred Three Thousand Eight Hundred Thirty-One Dollars (\$203,831) together with interest at the rate of ten and one-half percent (10 1/2%) interest per annum loaned by the Beneficiary to the Grantor pursuant to that Stipulated Order dated June 9, 1987, entered in that bankruptcy proceeding captioned "In Re: Donald Robert Manning and Lillian V. Manning; Lillian V. Manning (a partner in Manning Farms)" in the United States Bankruptcy Court for the District of Oregon, case number 687-06278-W12 (Manning Bankruptcy).

f. The Beneficiary's attorney fees incurred in the Manning Bankruptcy as approved by the bankruptcy court.

2. The Grantor covenants:

a. The Grantor will pay the Obligations and all extensions or renewals thereof, if any, together with all interest accrued thereon, promptly as the same become due.

b. The Grantor will pay when due all taxes, assessments and other governmental rates and charges against the property (including those heretofore due), and will furnish the Beneficiary, upon request, duplicate receipts therefor, and all items extended against the property shall be conclusively deemed valid for the purpose of this requirement.

c. The Grantor is the owner in fee simple of the property subject only to exceptions shown on Exhibit A and is entitled to possession of the property; the Grantor has the right to place the lien of this Trust Deed upon the property; the Grantor will keep the property free of all other encumbrances, including those of record, whether legal or otherwise, which are or might be prior or superior to the lien of the Beneficiary hereunder; the Grantor will warrant and defend the same against all claims and demands whatsoever; and

the Grantor will execute or procure such further assurance of Grantor's title to the property as may be reasonably requested by the Beneficiary to protect the Beneficiary's security interest.

d. The Grantor will keep the improvements now or hereafter located upon the property insured against damage by fire with extended coverage, broad form, until the indebtedness secured by this Trust Deed is fully paid, for the full replacement value thereof, in a form and with a company reasonably acceptable to the Beneficiary. Such insurance policy or policies shall have mortgagee clauses in favor of, and in the form acceptable to, the Beneficiary. In the event of foreclosure of this Trust Deed or other transfer of title to the property in extinguishment of the indebtedness secured by this Trust Deed, all right, title and interest of the Grantor in and to any insurance policies then in force shall be passed to the purchaser or grantee. In case of loss, the Grantor shall give immediate notice of loss by mail to the Beneficiary. In the event of destruction or damage, all insurance proceeds shall be held by the Beneficiary. Grantor may elect to rebuild and restore the improvements now or hereafter located on the property by giving written notice thereof to the Beneficiary within sixty (60) days from such destruction or damage. In the event the Grantor so elects, such rebuilding or restoration shall be promptly commenced and diligently prosecuted. Upon satisfactory proof of expenditure, Beneficiary shall pay or reimburse Grantor from the proceeds for the reasonable costs of repair or restoration. Any insurance proceeds not applied to the cost of repair or restoration shall be applied to the indebtedness secured by this Trust Deed, in addition to any other payments coming due thereon. In the event the Grantor does not give a timely notice of election to rebuild or restore, all insurance proceeds shall be paid to the Beneficiary to apply upon the indebtedness secured by this Trust Deed, in addition to any other payments coming due thereon. Upon request of the Beneficiary, the Grantor will furnish a certificate of insurance evidencing compliance with the insurance requirements of this paragraph.

e. The Grantor will keep the property in good condition and repair, without waste or strip, will not make, suffer or permit any unlawful use of or any nuisance to exist on the property, will not diminish or impair its value by any act or omission to act, and will comply with all requirements of law with respect to the property and the use thereof.

f. The Grantor will not initiate, join in or consent to any change in any private restrictive covenant or condition, zoning ordinance, other public or private restriction, limiting or defining the uses which may be made of the property or any

part thereof, without the prior written consent of the Beneficiary.

g. The Grantor shall not make any improvements or alterations to the property which reduce the value of the property for security purposes without first obtaining the written consent of the Beneficiary. The Grantor will not remove any portion of the property without first obtaining the written consent of the Beneficiary, provided, items of equal or greater value may be substituted for any improvements, apparatus, appurtenances, fixtures, built-in appliances or equipment now or hereafter used on the property.

h. Upon request of the Beneficiary, the Grantor shall certify in writing to the Beneficiary or the Beneficiary's proposed assignee the amount of principal and interest then owing and whether Grantor has or claims any setoffs or defenses thereto.

3. The Grantor shall not sell, assign or otherwise transfer any of the Grantor's interest in or to the property without the written consent of the Beneficiary. Consent of the Beneficiary to transfer shall not be unreasonably withheld. In the event the ownership of the property or any part thereof becomes vested in a person other than the Grantor, the Beneficiary may, without notice to the Grantor, deal with such successor or successors in interest with reference to this Trust Deed and the obligations hereby secured, either by forbearance to sue or by extending the time for payment of the indebtedness hereby secured, without in any way releasing, discharging or otherwise affecting the Grantor's liability hereunder for the indebtedness secured by this Trust Deed.

4. In case the property, or any portion thereof, shall be taken under the right of eminent domain or condemnation, then, as between the Grantor and the Beneficiary, the Beneficiary is entitled to collect and receive all compensation which may be paid for any property taken or for damage to property not taken, and all compensation so received shall be applied first upon any reasonable costs, expenses and attorney's fees necessarily paid or incurred by the Beneficiary in such proceeding; and the balance shall be applied upon the indebtedness secured by this Trust Deed. The Grantor agrees, at Grantor's expense, to take such action or to execute such instruments as may be necessary in obtaining such compensation, promptly upon the Beneficiary's request. It is understood that an agreed sale to a public body or quasi-public body of all or any portion of the property after threat of condemnation constitutes a condemnation as used in this paragraph.

5. It is expressly understood and agreed:

a. Should the Grantor fail to perform any of the covenants of this Trust Deed, the Beneficiary may at the Beneficiary's option carry out the same on behalf of the Grantor without waiver of such default, and the Beneficiary may do any act Beneficiary may deem necessary to protect the Beneficiary's security interest. Any expenditures made or charges incurred by the Beneficiary for the foregoing purpose shall be repayable by the Grantor on demand and shall be secured by this Trust Deed, and shall draw interest until repaid at the rate of one and one-half percent (1-1/2%) per month, but in no event exceeding the highest lawful rate. The Beneficiary may at the Beneficiary's option sue to collect all or any part of the aforementioned expenditures without foreclosing this Trust Deed and without affecting the Beneficiary's right to foreclose this Trust Deed at any future time. Nothing herein contained shall require the Beneficiary to advance any monies for any purpose or do any act hereunder, and the Beneficiary shall not incur any personal liability because of the Beneficiary's acts or omissions hereunder.

b. Time is material and of the essence hereof, and if default be made in the payment of the Obligations, or an installment, extension or renewal thereof, or of interest, or in the performance of any of the covenants herein contained, or if Grantor or any guarantor of the Promissory Note is adjudicated bankrupt or if a receiver is appointed for any property of Grantor or any guarantor of the Promissory Note, or if Grantor or any guarantor of the Promissory Note shall make an assignment for the benefit of creditors, or if proceedings be instituted to enforce any other lien or charge upon the property, or any part thereof, and within thirty (30) days thereafter Grantor shall not deposit cash or post a bond in lieu of cash in the amount of the alleged debt for the lien or charge sought to be enforced, or if the Grantor abandons any of the property, the balance of the unpaid principal with the accrued interest and all other indebtedness secured by this Trust Deed shall, at the Beneficiary's election, become immediately due without notice and Beneficiary may proceed to foreclose this Trust Deed by advertisement and sale or by judicial foreclosure, in the manner provided by law. In addition, the Beneficiary may, at the Beneficiary's option and without affecting the Beneficiary's security interest, apply toward the payment of the indebtedness such sums or any part thereof held by the Beneficiary under the provisions of this Trust Deed, or any indebtedness of the Beneficiary to the Grantor. Beneficiary's failure to exercise any right or option, or waiver of any default, shall not be deemed a waiver of any future right, option or default.

c. The Grantor assigns to the Trustee, for the benefit of Beneficiary, all rents, issues, profits and revenues from the property and hereby assigns any leases in effect or hereafter in effect upon the property or any part thereof.

However, until the Grantor is in default under this Trust Deed or the Obligations secured hereby, the Grantor shall have a license to collect and receive (but not more than thirty [30] days prior to accrual) those rents, issues, profits and revenues, and to retain, use and enjoy the same. In the event of default in any of the provisions of this Trust Deed and while the default continues, Grantor hereby authorizes and empowers the Beneficiary, Beneficiary's agents or attorneys, at Beneficiary's election, without notice to the Grantor, as agents for the Grantor, to take and maintain full control of the property; to oust tenants for nonpayment of rents; to lease all or any portion of the property, in the name of the Grantor, on such terms as Beneficiary may deem advisable; to make alterations or repairs Beneficiary may deem advisable and deduct the cost thereof from the rent; to receive all rents and income therefrom and issue receipts therefor; and out of the amount or amounts so received to pay the necessary operating expenses and retain or pay the customary charges for thus managing the property; to pay the Beneficiary any amount due upon the indebtedness secured by this Trust Deed; to pay taxes, assessments, and premiums of insurance policies, or renewals thereof, on the property, or amounts necessary to carry out any covenant in this Trust Deed contained, the Beneficiary to determine which items are to be met first, but to pay any overplus so collected to the Grantor, and those exercising this authority shall be liable to the owner only for the amount collected hereunder and the accounting thereof, and as to all others, persons exercising this authority are acting only as agent of the owner in the protection of the Beneficiary's security interest. In no event is the right to such management and collection of such rents to affect or restrict the right of the Beneficiary to foreclose this Trust Deed in case of default.

d. A receiver may be appointed in any proceeding to foreclose this Trust Deed, without regard to the adequacy of the security for the indebtedness or the insolvency of the Grantor or the absence of waste or danger of loss or destruction of the property, to possess, manage and control the property, and to collect the rents, issues and profits thereof. Upon a declaration of default under the terms of this Trust Deed, the Grantor shall attorn to the Beneficiary or to a receiver of the property.

e. Beneficiary shall not be required to marshal security and may proceed to foreclose or otherwise realize upon security in such order and in such manner as Beneficiary may determine in Beneficiary's sole discretion.

f. The Beneficiary and persons authorized by Beneficiary shall have the right to enter and inspect the property at all reasonable times.



g. For any reason permitted by law, Beneficiary may from time to time appoint a successor or successors to any trustee named herein or to any successor trustee appointed hereunder. Upon such appointment and without conveyance to the successor trustee, the latter shall be vested with all title, powers and duties conferred upon any trustee herein or appointed hereunder. Each such appointment and substitution shall be made by written instrument executed by Beneficiary, containing reference to this Trust Deed and its placing of record which, when recorded in the official records of the county in which this Trust Deed is recorded, shall be conclusive proof of proper appointment of the successor trustee.

h. Trustee accepts this trust when this Trust Deed, fully executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of a pending sale under any other trust deed or of any action or proceeding in which Grantor, Beneficiary or Trustee shall be a party unless such action or proceeding is brought by Trustee.

i. If Grantor shall be in default as specified above, or if Beneficiary seeks adequate protection of Beneficiary's interest under the Bankruptcy Code, the Grantor shall pay to the Trustee and the Beneficiary all reasonable expenses incurred by the Trustee and/or the Beneficiary, at any time necessary in the Trustee's or Beneficiary's opinion for the protection of the Beneficiary's interest or the enforcement of the Trustee's or Beneficiary's rights, including, but not limited to, the cost of searching records, obtaining title reports, surveyor's reports, attorney's opinions or title insurance, whether or not in connection with any legal proceeding; and the amount of such expense, with interest thereon from the date incurred at the rate of one and one-half percent (1-1/2%) per month, but in no event exceeding the highest lawful rate, shall be secured by this Trust Deed. If any legal proceeding is commenced to foreclose this Trust Deed or which concerns this Trust Deed in any way or arises from the execution hereof, including appeals, the prevailing party shall be entitled to recover reasonable attorney's fees. If this Trust Deed is foreclosed by judicial procedure, the Beneficiary shall, in addition, be entitled to recover at the time the judgment of foreclosure is entered an amount equal to the reasonable attorney's fees and legal expenses which Beneficiary reasonably anticipates will be incurred in enforcing and collecting such judgment.

6. This Trust Deed is a "commercial trust deed" as defined in ORS 86.770(4) (1987 Replacement Part). Where this Trust Deed is foreclosed by judicial procedure, the Beneficiary shall be entitled to recover a deficiency judgment against the Grantor and any surety, guarantor, successor in interest and any

other person obligated upon the obligations secured hereby, and the Beneficiary may bring actions, suits and proceedings against the Grantor and any surety, guarantor, successor in interest and any other person obligated upon the obligations secured hereby, for any amount by which the unpaid balance of the obligations secured by this Trust Deed exceed the net sale proceeds payable to the Beneficiary.

7. The interest rate, payment terms or balance due upon the Obligations may be indexed, adjusted, renewed or renegotiated upon agreement of the Grantor and the Beneficiary.

DATED this 28 day of June, 1988.

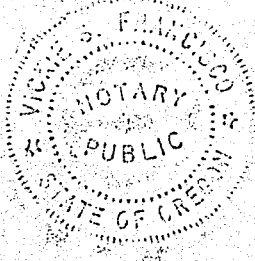
GRANTOR:

Donald R. Manning  
Donald R. Manning

Lillian V. Manning  
Lillian V. Manning

STATE OF OREGON                     )  
County of Klamath                ) ss.

The foregoing instrument was acknowledged before me this 28th day of JUNE, 1988, by DONALD R. MANNING and LILLIAN V. MANNING.



Vickie J. Francis  
Notary Public for Oregon  
My Commission Expires: 5-23-92



## EXHIBIT "A"

A tract of land situated in the SW $\frac{1}{4}$  of Section 21, Township 39 South, Range 9 East of the Willamette Meridian, in the County of Klamath, State of Oregon, more particularly described as follows:

Beginning at a point on the West line of said SW $\frac{1}{4}$ , said point being North 00° 08' 31" East 1517.47 feet from the Southwest corner of said Section 21; thence South 86° 28' 34" East 1689.90 feet to the Westerly right of way line of the U.S.B.R. 1-N Drain; thence Southerly along said Westerly right of way line, South 26° 36' East 78.00 feet and South 04° 04' East 481.48 feet to the Northeast corner of property in Deed Volume M-78 at page 18543, Microfilm Records of Klamath County, Oregon; thence West, along the North line of said Deed Volume 1191.46 feet to the Easterly right of way line of the Klamath Irrigation District C-4-E Lateral; thence Northerly along said Easterly lateral right of way line, North 43° 05' West 725.11 feet, along the arc of a curve to the left (radius = 597.96 feet, central angle = 06° 00') 62.62 feet, North 49° 05' West 31.87 feet to the West line of the SW $\frac{1}{4}$  Of said Section 21; thence North 00° 08' 31" East 60.00 feet to the point of beginning.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Hershner, Hunter, Moulton et al the 8th day  
of July A.D., 19 88 at 2:03 o'clock P. M., and duly recorded in Vol. M88,  
of Mortgages on Page 10723.

Evelyn Biehn - County Clerk

By Pauline Mullenbore

FEE \$48.00