

90344

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Loan No. 205021-9

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Dennis J. Heil
1100 S.W. Sixth Avenue
Suite 1408
Portland, Oregon 97204

DEED OF TRUST
ASSIGNMENT OF RENTS AND LEASES,
SECURITY AGREEMENT AND FIXTURE FILING
(Agricultural Loan)

THIS DEED OF TRUST, ASSIGNMENT OF RENTS AND LEASES, SECURITY AGREEMENT AND FIXTURE FILING ("Deed of Trust") is made as of the 25th day of July, 1988, by and among MANUEL ELIAS ("Trustor"), whose principal place of business is P.O. Box 543, Hopland, California 95449, and KLAMATH COUNTY TITLE COMPANY ("Trustee"), whose principal place of business is 422 Main Street, P.O. Box 151, Klamath Falls, Oregon 97601, and THE TRAVELERS INDEMNITY COMPANY OF RHODE ISLAND, a Rhode Island corporation ("Beneficiary"), whose principal place of business is One Tower Square, Hartford, Connecticut, but whose address for purposes of notice is P.O. Box 8161, 2121 N. California Blvd., Suite 1000, Walnut Creek, California 94596.

FOR GOOD AND VALUABLE CONSIDERATION, including the indebtedness herein recited and the trust herein created, the receipt of which is hereby acknowledged, Trustor hereby irrevocably grants, transfers, conveys and assigns to Trustee, in trust, with power of sale, for the benefit and security of Beneficiary, under and subject to the terms and conditions hereinafter set forth, all of Trustor's right, title and interest now owned or hereafter acquired in and to that certain real property located in Klamath County, Oregon, and more particularly described in Exhibit A attached hereto and by this reference incorporated herein (the "Property").

(The address of Beneficiary is as provided above and the Tax Account Numbers of the Property are R 3407 05800, R3407 05700, R3407 05600, R3407 05300, R3407 05500, R3407 03700, R3507 00400, R3507 00600 and R3406 00400.)

TOGETHER WITH all rents, issues, profits, royalties, income and other benefits derived from the Property (collectively the "Rents") subject to the right, power and authority hereinafter given to Trustor to collect and apply the Rents;

1 - DEED OF TRUST, ASSIGNMENT OF RENTS AND LEASES, SECURITY AGREEMENT AND FIXTURE FILING (Agricultural Loan)

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TOGETHER WITH all leasehold estate, right, title and interest of Trustor in and to all leases or subleases covering the Property or any portion thereof now or hereafter existing or entered into, and all right, title and interest of Trustor in all leases, permits, allotments, licenses and privileges, whether or not appurtenant, from the United States or the State of Oregon or any department or other agency of either for the purpose of grazing, pasturing or feeding livestock on any of the public lands of the United States or the State of Oregon;

TOGETHER WITH all right, title and interest of Trustor in and to all options to purchase or lease the Property or any portion thereof or interest therein;

TOGETHER WITH all easements, rights-of-way and rights used in connection therewith or as a means of access thereto, and all tenements, hereditaments and appurtenances thereof and thereto, and all water and water rights (whether riparian, appropriative or otherwise and whether or not appurtenant) and all water service contracts and licenses now or hereafter relating to or used in connection therewith, all ditch rights, and all shares of stock evidencing any such water or ditch rights.

TOGETHER WITH any and all mobile homes, buildings and improvements now or hereafter erected thereon (the "Improvements"), and all materials intended for construction, re-construction, alteration and repair of the Improvements, all of which materials shall be deemed to be included within the Property immediately upon the delivery thereof to the Property and including, but not limited to, the fixtures, attachments, appliances, equipment, machinery, and other articles attached to the Improvements;

TOGETHER WITH all right, title and interest of Trustor in and to all tangible personal property owned by Trustor and now or at any time hereafter located on or at the Property or the Improvements or used in connection therewith, including without limitation the property described in attached Exhibit "C";

TOGETHER WITH all right, title and interest of Trustor in and to all irrigation equipment, including but not limited to windmills, all pumps, pumping stations, motors, switch boxes and transformers, engines, machinery, tanks, reservoirs, pipes, flumes, fences and other machinery and equipment now or hereafter affixed (whether actually or constructively) to said Property or used for the production of water on said Property or for the irrigation or drainage thereof.

TOGETHER WITH all the estate, interest, right, title or other claim or demand, including claims or demands with respect to the proceeds of insurance in effect with respect thereto, which Trustor now has or may hereafter acquire in the Property, and any and all awards made for the taking by eminent domain, or by any proceeding or purchase in lieu thereof, of the whole or

any part of the Trust Estate as hereafter defined, including, without limitation, any awards resulting from a change of grade of streets and awards for severance damages.

TOGETHER WITH all of the oil, gas, associated hydrocarbons, coal, lignite, sulphur, phosphate, lead, zinc, copper, iron ore and other metallic ores, sodium, salt, uranium, thorium, molybdenum, vanadium, geothermal energy, titanium and other fissionable material, gold, silver (and other precious metals), bauxite, limestone and other stones, gypsum and other materials owned by Trustor, together with full rights of ingress and egress and use of the surface to the extent reasonably necessary for the purpose of exploring, drilling, mining (including, to the extent reasonable in the circumstances, open pit and strip mining), developing, producing, storing, removing, treating and transporting said minerals. The foregoing reservation affects all minerals owned by Trustor, if any, (except sand, clay or gravel), whether solid, liquid or gaseous (or a mixture), whether valuable or not and whether or not known to exist under the Property.

The entire estate, property and interest, hereby conveyed to Trustee shall herein be referred to as the "Trust Estate".

FOR THE PURPOSE OF SECURING:

A. Payment of indebtedness in the total principal amount of \$650,000.00, with interest thereon (the "Indebtedness"), evidenced by that certain Promissory Note of even date herewith (the "Note"), being payable in installments, the last of which, together with all unpaid principal and other sums due under the Loan Instruments, is to be made on January 1, 1997 (the "Maturity Date"), executed by Trustor, which has been delivered to and is payable to the order of Beneficiary, and which by this reference is hereby made a part hereof, and any and all modifications, replacements, extensions and renewals thereof.

B. Performance of all obligations of Trustor herein contained.

C. Payment of all sums with interest thereon becoming due or payable under the provisions hereof to either Trustee or Beneficiary.

D. Payment of all other sums owed by Trustor to Beneficiary, including those incurred by Trustor as primary obligor or as guarantor.

E. Performance of Trustor's obligations and agreements contained in Trustor's loan application and Beneficiary's loan commitment, and any functionally similar application and commitment between Trustor and Beneficiary.

This Deed of Trust, the Note, any guaranty thereof and any other instrument given to evidence or further secure the payment and performance of any obligation secured hereby may hereinafter be referred to as the "Loan Instruments or the "Loan Documents".

ARTICLE I

ASSIGNMENT OF LEASES AND RENTS

1.01 Assignment of Rents. Trustor hereby assigns and transfers to Beneficiary all the Rents of the Trust Estate and hereby gives to and confers upon Beneficiary the right, power and authority to collect such Rents. Trustor irrevocably appoints Beneficiary its true and lawful attorney in fact, at the option of Beneficiary, at any time and from time to time, to demand, receive and enforce payment, to give receipts, releases and satisfactions, and to sue, in the name of Trustor or Beneficiary, for all such Rents and apply the same to the Indebtedness secured hereby; provided, however, that Trustor shall have a license to collect such Rents (but not more than one month in advance) prior to or at any time there is not an event of default under any of the Loan Instruments. The assignment of the Rents of the Trust Estate in this Article I is intended to be an absolute assignment from Trustor to Beneficiary and not merely the passing of a security interest. The Rents are hereby assigned absolutely by Trustor to Beneficiary contingent only upon the occurrence of any event of default under any of the Loan Instruments.

1.02 Collection Upon Default. Upon any event of default under any of the Loan Instruments, Beneficiary may, at any time, without notice, either in person, by agent or by a receiver appointed by a court, and without regard to the adequacy of any security for the Indebtedness hereby secured, enter upon and take possession of, manage and operate the Trust Estate, or any part thereof, make, enforce or modify leases, obtain and evict tenants, and fix or modify Rents or do any acts which Beneficiary deems proper to protect the security hereof, (including the right, at the expense of Trustor, to purchase any equipment for the operation thereof), and either with or without taking possession of the premises, in its own name sue for or otherwise collect the Rents, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including attorneys' fees, upon any Indebtedness secured hereby, and in such order as Beneficiary may determine. The collection of such Rents, or the entering upon and taking possession of the Trust Estate, or the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done in response to such default or pursuant to such notice of default and the enforcement of such right or remedy by Beneficiary, once exercised, shall

continue for so long as Beneficiary shall elect, notwithstanding that the aforesaid collection and application of such Rents of the Property may have cured the original default. If Beneficiary shall thereafter elect to discontinue the exercise of any such right or remedy, the same or any other right or remedy under this Deed of Trust may be reasserted at any time and from time to time following any subsequent default.

ARTICLE II

WARRANTY OF TITLE

Trustor warrants that (i) it is the lawful owner of the Property; (ii) it will maintain and preserve the lien of this Deed of Trust until the Indebtedness has been paid in full; (iii) it has good, right and lawful authority to grant the Property and the Trust Estate as provided in and by this Deed of Trust; and (iv) it will forever warrant and defend its grant made herein against any and all claims and demands whatever, except as are specifically set forth in this Deed of Trust. Trustor further warrants that the lien created by this Deed of Trust is a first and prior lien on the Property and Improvements, and that the Property and Improvements are and shall be kept free and clear of all encumbrances and charges, except those previously accepted by Beneficiary in writing and those specified in attached Exhibit B.

ARTICLE III

REPRESENTATIONS AND WARRANTIES

Trustor hereby represents and warrants to Beneficiary and Trustee that:

3.01 Organization of Trustor.

A. If Trustor is a partnership or corporation, it is duly organized, validly existing and in good standing under the laws of the state of its organization and is duly qualified to do business in the State of Oregon;

B. Trustor has the requisite power and authority to own and manage its properties, to carry on its business as now being conducted and to own, develop and operate the Property; and

C. To the best of its knowledge, after due inquiry, Trustor is in compliance with all laws, regulations, ordinances and orders of public authorities applicable to it in operating the Property.

3.02 Validity of Loan Instruments.

A. The execution, delivery and performance by Trustor of the Loan Instruments and the borrowings evidenced by the Note: (i) are within the power of Trustor; (ii) have been duly authorized by all requisite corporate or partnership action, as appropriate; (iii) have received all necessary governmental approval and no registration is needed with any governmental agency; and (iv) will not violate any provision of law, any order of any court or agency of government, the charter documents of Trustor, or any indenture, agreement or any other instrument to which Trustor is a party or by which Trustor or any of its property is bound, or be in conflict with result in a breach of or constitute (with due notice and/or lapse of time) a default under any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of its respective property or assets, except as contemplated by the provisions of the Loan Instruments; and

B. Each of the Loan Instruments, when executed and delivered to Beneficiary, will constitute a legal, valid and binding obligation enforceable in accordance with its terms.

3.03 Financial Statements.

A. All financial data that has been given to Beneficiary with respect to Trustor: (i) is complete and correct in all material respects; (ii) accurately presents the financial condition of Trustor on each date as of which, and the results of Trustor's operations for the periods for which, the same have been furnished; and (iii) has been prepared in accordance with generally accepted accounting principles consistently applied throughout the periods covered thereby;

B. All balance sheets and the notes thereto with respect to Trustor furnished to Beneficiary disclose all liabilities of Trustor, fixed and contingent, as of their respective dates; and

C. There has been no adverse change in the financial condition or operations of Trustor since the date of the most recent of each such financial statement given to Beneficiary other than changes in the ordinary course of business, none of which changes has been materially adverse individually or in the aggregate.

3.04 Improvements. The Improvements are structurally sound and in good condition and are permitted by all governmental regulations applicable to the Property.

3.05 Other Arrangements. Trustor is not a party to any agreement or instrument materially and adversely affecting

its present or proposed business, properties or assets, operation or condition, financial or otherwise; and Trustor is not in default in the performance, observance or fulfillment of any of the material obligations, covenants or conditions set forth in any agreement or instrument to which it is a party.

3.06 Other Information. All other reports, papers, data and information given to Beneficiary with respect to Trustor and the Property are accurate and correct in all material respects and complete insofar as completeness may be necessary to give Beneficiary a true and accurate knowledge of the subject matter.

3.07 Litigation. There is not now pending against or affecting Trustor not to its knowledge is there threatened any action, suit or proceeding at law or in equity or by or before any administrative agency that, if adversely determined, would materially impair or affect the financial condition of Trustor or Guarantor or the Property or operation thereof.

3.08 Taxes. Trustor has filed all federal, state, provincial, county and municipal income tax returns required to have been filed by it and has paid all taxes that have become due pursuant to such returns or pursuant to any assessments received by it, and Trustor knows of no basis for any additional assessment against it in respect of such taxes.

ARTICLE IV

AFFIRMATIVE COVENANTS AND AGREEMENTS OF TRUSTOR

Trustor hereby covenants to Beneficiary and Trustee, and agrees with Beneficiary and Trustee as follows:

4.01 Obligations of Trustor. Trustor shall pay when due the principal of, and the interest on, the Indebtedness, Trustor shall pay when due all charges, fees and all other sums as provided in the Loan Instruments, and the principal of, and interest on, any future advances secured by this Deed of Trust. Trustor (a) shall timely perform, or cause to be timely performed, all the covenants, agreements, terms and conditions to be performed by the Trustor (i) as "Borrower" under the Loan Application and Commitment Terms and Conditions with respect to the loan secured hereby; (ii) as seller under each contract of sale of and as lessor under each lease of a portion of the Property; (iii) under all other agreements between Trustor and Beneficiary pertaining to the Indebtedness in accordance with the respective terms thereof; and (iv) under all other agreements to which Trustor is a party with respect to the Property;

4.02 Maintenance, Repair, Alterations. Trustor shall keep all buildings and improvements which now are or hereafter shall be erected upon the Property in good condition and repair, and the land in a high state of cultivation and production; shall neither remove or demolish any building or alter or impair the design or structural character of any building or improvement now existing or which may be erected hereafter upon the Property unless Beneficiary shall first consent thereto in writing. Trustor agrees to observe at all times the best practices as to seed selection, crop rotation, weed control, fertilizing the soil, drainage, prevention of erosion, and pasture maintenance, and to adopt approved scientific practices and methods which have been demonstrated to be practicable to the end that the fertility, productivity and worth of the Property will be increased from year to year. Trustor shall not permit or commit any waste on the Property. Should Trustor fail to perform any act required of Trustor hereunder, Beneficiary may at its option make advisable or necessary repairs or remedy any waste, or do any other acts which from the character or use of the Property may be reasonably necessary, and Beneficiary, acting through its employees, agents or attorneys, is hereby authorized to enter upon and take possession of the Property for such purpose.

4.03 Required Insurance.

A. Trustor shall at all times, at Trustor's sole cost and expense, provide, maintain and keep in force such policies of insurance as Beneficiary may require.

B. All insurance policies required hereby shall be issued by companies satisfactory to Beneficiary, on terms and conditions satisfactory to Beneficiary, on forms and with deductibles all of which are acceptable to Beneficiary, and shall recite Beneficiary's interest as Mortgagee in standard non-contributory mortgagee clauses effective as of the date hereof, or shall name Beneficiary as an additional insured, shall be maintained for so long as the Note is outstanding without cost to Beneficiary, and shall contain such provisions as Beneficiary deems necessary or desirable to protect its interest. If a blanket policy is issued, a certified copy of said policy shall be furnished together with a certificate indicating that Beneficiary is the insured under said policy in the proper designated amount. If any portion of any of the insured risks are reinsured, the policies shall contain a "cut through" endorsement. In all cases, the insurance carrier must be licensed in the State of Oregon, have been in business for at least five (5) years and have a General Policyholder's rating of B+ or higher and a financial rating of Class XII or higher. Trustor shall provide Beneficiary with a Certificate of Insurance which shall have attached thereto a lender's loss payable endorsement for the benefit of Beneficiary in form satisfactory to Beneficiary. At least seven (7) days prior to the expiration of each such policy, Trustor shall furnish Beneficiary with evidence satisfactory to

Beneficiary of the payment of the premium and the reissuance of a policy continuing insurance in force as required by this Deed of Trust. All such policies shall contain a provision that such policies will not be cancelled or materially amended, or the scope thereof or limits of coverage thereof reduced, without at least thirty (30) days' prior written notice by registered mail to Beneficiary. All insurance policies required hereby shall also provide that if any such policy or part thereof shall expire or be withdrawn, or become void or subject to cancellation by reason of the breach of any condition thereof, or become void by reason of the failure or impairment of the capital of any company in which the insurance shall be carried, or if for any reason whatsoever the insurance shall be unsatisfactory to Beneficiary, Beneficiary may procure such insurance as it deems necessary to protect its sole interest. Trustor will promptly upon demand pay direct or reimburse Beneficiary for all premiums and other costs incurred in procuring such insurance, and until such payment is made by Trustor the amount of all such premiums together with interest thereon at the Default Rate (as defined in the Note) shall be secured by this Deed of Trust.

4.04

Indemnification; Subrogation; Waiver of Offset.

A. If Beneficiary is made a party defendant to any litigation concerning this Deed of Trust or the Trust Estate or any part thereof or interest therein, or the occupancy thereof by Trustor, then Trustor shall indemnify, defend and hold Beneficiary harmless from all liability by reason of said litigation, including reasonable attorneys' fees and expenses incurred by Beneficiary in any such litigation, whether or not any such litigation is prosecuted to judgment. If Trustor breaches any term of this Deed of Trust, Beneficiary may employ an attorney or attorneys to protect its rights hereunder, and in the event of such employment following any breach by Trustor, Trustor shall pay Beneficiary its reasonable attorneys' fees and expenses incurred by Beneficiary, whether or not an action is actually commenced against Trustor by reason of breach. If Beneficiary commences an action against Trustor to enforce any of the terms hereof or because of the breach by Trustor of any of the terms hereof, or for the recovery of any sum secured hereby, Trustor shall pay to Beneficiary its reasonable attorneys' fees and expenses, and the right to such attorneys' fees and expenses shall be deemed to have accrued on the commencement of such action, and shall be enforceable whether or not such action is prosecuted to judgment.

B. Trustor waives any and all right to claim or recover against Beneficiary, its officers, employees, agents and representatives, for loss of or damage to Trustor, the Trust Estate, Trustor's property or the property of others under Trustor's control from any cause insured against or required to be insured against by the provisions of this Deed of Trust.

C. All sums payable by Trustor hereunder shall be paid without notice, demand, counterclaim, setoff, deduction or defense and without abatement, suspension, deferment, diminution or reduction, and the obligations and liabilities of Trustor hereunder shall in no way be released, discharged or otherwise affected (except as expressly provided herein) by reason of (i) any damage to or destruction of or any condemnation or similar taking of the Trust Estate or any part thereof; (ii) any restriction or prevention of or interference with any use of the Trust Estate or any part thereof; (iii) any title defect or encumbrance or any eviction from the Property or the Improvements or any part thereof by title, paramount or otherwise; (iv) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation or other like proceeding relating to Beneficiary, or any action taken with respect to this Deed of Trust by any trustee or receiver of Beneficiary or by any court in any such proceeding; (v) any claim Trustor has or might have against Beneficiary; (vi) any default or failure on the part of Beneficiary to perform or comply with any of the terms hereof or of any other agreement with Trustor; or (vii) any other occurrence whatsoever, whether similar or dissimilar to the foregoing, whether or not Trustor shall have notice or knowledge of any of the foregoing. Except as expressly provided herein, Trustor waives all rights now or hereafter conferred by statute or otherwise to any abatement, suspension, deferment, diminution or reduction of any sum secured hereby and payable by Trustor.

4.05 Taxes. Trustor shall pay, prior to delinquency, all real property taxes and assessments, general and special, and all other taxes and assessments of any kind or nature whatsoever (including without limitation nongovernmental levies or assessments such as maintenance charges, owner association dues or charges or fees, and levies or charges resulting from covenants, conditions and restrictions affecting the Trust Estate) that are assessed or imposed upon the Trust Estate or become due and payable, and that create, may create or appear to create a lien upon the Trust Estate, or any part thereof, or upon any personal property, equipment or other facility used in the operation or maintenance thereof (all of which taxes, assessments and nongovernmental charges are hereinafter referred to as "Impositions").

4.06 Utilities. Trustor shall pay when due all utility charges that are incurred by Trustor for the benefit of the Trust Estate or that may become a charge or lien against the Trust Estate for gas, electricity, water or sewer service furnished to the Trust Estate and all other assessments or charges of a similar nature, whether public or private, affecting the Trust Estate or any portion thereof, whether or not such taxes, assessments or charges are liens thereon.

4.07 Actions Affecting Trust Estate. Trustor, at Trustor's expense, shall appear in and contest any action or

proceeding purporting to affect the Trust Estate or the security hereof or the rights or powers of Beneficiary or Trustee. Trustor shall pay all costs and expenses incurred by Beneficiary or Trustee, including attorneys' fees, in any such action or proceeding in which Beneficiary or Trustee may appear.

4.08 Books and Records. Trustor shall maintain at the Property or in the County in which the Property is located, full and complete books of account and other records reflecting the results of its operations (in conjunction with its other operations as well as its operation of the Property), in form satisfactory to Beneficiary, and furnish or cause to be furnished to Beneficiary such information about (i) the financial condition of Trustor, and (ii) the sales and operations of the Property or portions thereof as Beneficiary shall reasonably request.

4.09 Compliance with Law. Trustor shall comply with all statutes, orders, requirements or decrees of any federal, state or municipal authority relating to the Property; comply with all laws, governmental standards and regulations applicable to Trustor or the Property with respect to occupational health and safety, hazardous work and substances, and environmental matters; observe and comply with all conditions and requirements necessary to preserve and extend any and all rights, licenses, permits (including, but not limited to, zoning variances, special exceptions and nonconforming uses), privileges, franchises and concessions that are applicable to the Property or that have been granted to or contracted for by Trustor in connection with any existing or presently contemplated use of the Property; and permit Beneficiary or its agents, at all reasonable times, to enter upon and inspect the Property. Trustor shall promptly notify Beneficiary of its receipt of any notice of a violation of any law, standard of regulation under this paragraph, and hereby agrees to indemnify and hold Beneficiary harmless from all loss, cost, claim and expense incurred by Beneficiary on account of Trustor's failure to perform its obligations under this paragraph.

4.10 Actions by Trustee and/or Beneficiary to Preserve Trust Estate. If Trustor fails to make any payment or to do any act as and in the manner provided in any of the Loan Instruments, Beneficiary and/or Trustee, each in its own discretion, without obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligation, may make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof. In connection therewith (without limiting their general powers), Beneficiary and/or Trustee shall have and are hereby given the right, but not the obligation, (i) to enter upon and take possession of the Trust Estate; (ii) to make additions, alterations, repairs and improvements to the Trust Estate which they or either of them may consider necessary or proper to keep the Trust Estate in good condition and repair; (iii) to appear and participate in any

action or proceeding affecting or which may affect the security hereof or the rights or powers of Beneficiary or Trustee; (iv) to pay, purchase, contest or compromise any encumbrance, claim, charge, lien or debt which in the judgment of either may affect or appears to affect the security of this Deed of Trust or may be or appears to be prior or superior hereto; and (v) in exercising such powers, to pay necessary expenses, including employment of counsel or other necessary or desirable consultants. Trustor shall, immediately upon demand therefore by Beneficiary, pay all costs and expenses incurred by Beneficiary in connection with the exercise by Beneficiary of the foregoing rights, including, without limitation, costs of evidence of title, court costs, appraisal, surveys and attorneys' fees, together with interest at the Default Rate (as defined in the Note) until paid, and all such sums shall be secured by this Deed of Trust.

4.11 Survival of Warranties. Trustor shall fully and faithfully satisfy and perform the obligations of Trustor contained in the Trustor's loan application and Beneficiary's loan commitment and each agreement of Trustor incorporated by reference therein or herein, and any modification or amendment thereof. All representations, warranties and covenants of Trustor contained or incorporated by reference therein or herein shall survive the close of escrow and funding of the loan evidenced by the Note and shall remain continuing representations, warranties and covenants of Trustor during any time when any portion of the Indebtedness remains outstanding.

4.12 Additional Security. In the event Beneficiary at any time holds additional security for any of the obligations secured hereby, it may enforce the sale thereof or otherwise realize upon the same, at its option, prior to or concurrently with or subsequent to any sale hereunder.

4.13 Inspections. Beneficiary, through its agents, representatives or employees, is authorized, subject to the requirements of leases approved by Beneficiary, to enter at any reasonable time upon or in any part of the Trust Estate for the purpose of inspecting the same and for the purpose of performing any of the acts it is authorized to perform under the terms of any of the Loan Instruments.

4.14 Liens. Trustor shall pay and promptly discharge, at Trustor's cost and expense, all liens, encumbrances and charges upon the Trust Estate, or any part thereof or interest therein whether inferior or superior to this Deed of Trust and to keep and maintain the same free from the claim of all persons supplying labor or materials that will enter into the construction of any and all buildings now being erected or that hereafter may be erected on the Property regardless of by whom such labor or materials may have been contracted, provided, however, that Trustor shall have the right to contest any such claim or lien so long as Trustor shall post a bond satisfactory to Beneficiary

against such contested claim or lien; on the failure of Trustor to perform these covenants, or any part thereof, thereupon the principal of the Note and all arrears of interest thereon shall at the option of the Beneficiary, become due and payable, anything contained herein to the contrary notwithstanding.

4.15 Trade Names. At the request of Beneficiary, Trustor shall execute a certificate in form satisfactory to Beneficiary listing the trade names under which Trustor intends to operate the Trust Estate, and representing and warranting that Trustor does business under no other trade names with respect to the Trust Estate. Trustor shall immediately notify Beneficiary in writing of any change in said tradenames, and will, upon request of Beneficiary, execute any additional financing statements and cause other certificates to be revised to reflect the change in tradename.

4.16 Further Assurances. Trustor, at any time upon the reasonable request of Beneficiary, shall at Trustor's expense execute, acknowledge and deliver all such additional papers and instruments (including, without limitation, a declaration of no setoff), and all such further assurances of title, and will do or cause to be done all further acts and things, as may be proper or reasonably necessary to carry out the purpose hereof and of the Loan Instruments and to subject to the liens thereof any property intended by the terms thereof to be covered thereby and any renewals, additions, substitutions, replacements or betterments thereto.

4.18 Litigation. Trustor shall promptly give notice in writing to Beneficiary of any litigation commenced or threatened affecting Trustor or the Property other than unlawful detainer proceedings brought by Trustor.

4.19 Water Rights. Trustor shall proceed with due diligence to perfect any existing or future water right or permit appurtenant to the Property into a complete appropriation. In the event Trustor fails to so proceed to perfect such water right or permit, Beneficiary may (but shall not be required to) so perfect such right or permit, or, at the election of Beneficiary, may require that the entire debt secured hereby shall become immediately due and payable, or may do both.

ARTICLE V

NEGATIVE COVENANTS OF TRUSTOR

Trustor hereby covenants to Beneficiary and Trustee, and agrees with Beneficiary and Trustee as follows:

5.01 Restrictive Uses. Trustor covenants not to initiate, join in, or consent to any change in any zoning

ordinance, private restrictive covenant, assessment proceedings or other public restriction limiting or restricting the uses of which may be made of the Property or any part thereof without the prior written consent of Beneficiary.

5.02 Other Financing. Except for the liens securing the Indebtedness, Trustor shall not create or permit to continue in existence any mortgage, pledge, security interest, lien or charge of any kind (including purchase money and conditional sale liens) or other encumbrance upon any of the Property except for (i) liens for taxes and assessments not yet delinquent, and (ii) such other liens or charges as are specifically approved in writing by Beneficiary prior to the recordation thereof. Trustor further agrees to take all action necessary to promptly secure releases of all liens and encumbrances which in the opinion of Beneficiary are or may be prior to Beneficiary's security interest. Any transaction in violation of this Paragraph shall cause all Indebtedness, irrespective of the maturity dates thereof, at the option of the holder thereof and without demand or notice, immediately to become due and payable.

5.03 Transferability. The Note provides as follows in Paragraph 6 thereof:

"6. Acceleration upon Transfer of Property.

(a) The loan is personal to Maker and not assignable. In making it, Holder has relied on Maker's credit, Maker's interest in the property securing this Note, and the financial market conditions at the time the loan is made. If the Maker or any successor-in-interest of Maker, transfers or contracts to transfer title to or possession of all or a portion of the property securing this Note by deed, contract of sale, lease (except leases for periods of less than one year), or similar agreement, without the prior written consent of Holder, Holder may declare the entire balance of the loan immediately due and payable.

(b) The Holder will waive its rights under subparagraph 6(a) if the following conditions are met:

(1) The credit of the proposed transferee is acceptable to Holder;

(2) The proposed transferee shall assume full personal liability for payment and performance of the Note, the Trust Deed and the other security instruments securing this Note;

(3) A charge for administrative costs is paid to Holder;

(4) At Holder's option, the Note Rate shall be increased to a rate not in excess of then current market rates

for comparable loans under comparable circumstances (the amount of the increase shall be determined solely by Holder); and

(5) If a grazing right or privilege, or a water right, permit or contract is appurtenant to or related to the secured property transferred, such right, privilege, permit and contract are assigned to the proposed transferee, and such assignment does not adversely affect any such right, privilege, permit or contract or any of the property secured by the Trust Deed.

(c) Without limiting the generality or effect of the foregoing, waiver by Holder of its right to accelerate the loan upon any transfer or contract to transfer, or to require satisfaction of the conditions set forth in subparagraph 6(b) shall not be deemed a waiver by Holder of its right to accelerate the loan upon any other transfer or contract to transfer or of its right upon such transfer or contract to transfer to require satisfaction of the conditions set forth above in subparagraph 6(b).

(d) In the event of a change in the Note Rate pursuant to the terms of this Note or otherwise, the interest payments required hereunder shall be adjusted to reflect the change in the Note Rate.

(e) Unless Holder specifically agrees in writing, assumption by the transferee shall not release Maker or any successor-in-interest from liability for payment and performance of the terms and conditions of this Note or any instrument securing this Note.

(f) For the purpose of illustration, and without limiting the generality of the foregoing, the occurrence at any time of any of the following events, without Holder's prior written consent, shall be deemed to be a transfer of title to the secured property:

(1) Any sale, conveyance, lease (except leases for periods of less than one year), assignment or other transfer of, or the grant of a security interest in all or any part of the legal and/or equitable title to the property securing this Note;

(2) Any conveyance, grant or other transfer of the legal and/or equitable title to the secured property which occurs by operation of law, by trustees in bankruptcy, receivers or estate administrators or executors, or by or through a bankruptcy court;

(3) Any sale, conveyance, assignment or other transfer of, or the grant of a security interest in, any share of the stock of Maker.

(g) Any consent by Holder, or any waiver of any event of default, under this paragraph 6 shall not constitute a consent to or waiver of any right, remedy or power of Holder upon a subsequent event of default under this paragraph 6."

ARTICLE VI

CASUALTY AND CONDEMNATION

6.01 Casualty and Restoration.

A. After the happening of any casualty to the Property, whether or not required to be insured against under the policies to be provided by Trustor hereunder, Trustor shall give prompt written notice thereof to Beneficiary generally describing the nature and cause of such casualty and the extent of the damage or destruction to the Property.

B. In the event of any damage to or destruction of the Property, then, provided Trustor is not in default under any of the Loan Instruments and Beneficiary has determined that its security has not been impaired, Trustor shall commence and diligently pursue to completion the repair, restoration and rebuilding of any portion of the Property that has been partially damaged or destroyed in full compliance with all legal requirements and to the same condition, character and at least equal value and general utility as nearly as possible to that existing prior to such damage or destruction.

6.02 Condemnation. If the Trust Estate, or any part thereof or interest therein, is taken or damaged permanently or temporarily by reason or any public improvement or condemnation proceeding, or in any other manner ("Condemnation"), or should Trustor receive any notice or other information regarding such a proceeding, Trustor shall give prompt written notice thereof to Beneficiary and will deliver to Beneficiary copies of any and all papers served in connection therewith.

A. Beneficiary shall be entitled to all compensation, awards and other payments or relief therefor, and Trustor does hereby appoint Beneficiary its attorney-in-fact, coupled with an interest, and authorizes such attorney at the option of the attorney, on behalf of Trustor, its successors and assigns, to commence, appear in and prosecute in its own name any action or proceedings or to make any compromise or settlement in connection with such taking or damage. All such compensation, awards, damages, rights of action and proceeds awarded to Trustor (the "Proceeds") are hereby assigned to Beneficiary and Trustor agrees to execute such further assignments of the Proceeds as Beneficiary or Trustee may require.

B. In the event any portion of the Mortgaged Property is so taken or damaged, Beneficiary shall have the option, in its sole and absolute discretion, to apply all such Proceeds, after deducting therefrom all costs and expenses (regardless of the particular nature thereof and whether incurred with or without suit), including attorneys' fees, incurred by it in connection with such Proceeds, upon the Indebtedness in such order as Beneficiary may determine, or to apply all such Proceeds, after such deductions, to the restoration of the Mortgaged Property upon such conditions as Beneficiary may determine. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

ARTICLE VII

SECURITY AGREEMENT

7.01 Grant of Security Interest. For the purpose of securing all indebtedness and other obligations of Trustor now or hereafter secured by this Deed of Trust, Trustor hereby grants to Beneficiary a security interest in all of the following property (collectively the "Collateral") now or hereafter owned by Trustor and affixed to, located on or at the Property or used in connection with the operation of the Property or the Improvements:

All personal property described in attached Exhibit "C" and in any financing statement filed in connection with the loan'

All personal property utilized in the operation of the Property, including but not limited to, all irrigation equipment, windmills, all pumps, pumping stations, motors, switch boxes and transformers, engines, machinery, tanks, reservoirs, pipes, flumes, fences and other machinery and equipment now or hereafter annexed (whether actually or constructively) to said Property or used for the production of water on said Property or for the irrigation or drainage thereof; and

Subject to the other provisions of this Deed of Trust, all proceeds of any policy insuring the Property (and the contents of the Improvements), all awards made in any condemnation proceedings, or purchase in lieu thereof, with respect to the Property, and any compensation, award, payment or relief given by any governmental agency or other source because of damage to the Property or Trustor's participation in any governmental program affecting the Property, together with all additions to, substitutions for, changes in or replacements of the whole or any part of said Collateral.

7.02 Warranties, Representations and Covenants of
Trustor. Trustor hereby warrants, represents and covenants as follows:

A. Except for the security interest granted hereby, Trustor is, and as to portions of the Collateral to be acquired after the date hereof will be, the sole owner of the Collateral, free from any adverse lien, security interest, encumbrance or adverse claims thereon of any kind whatsoever. Trustor will notify Beneficiary of and shall defend the Collateral against, all claims and demands of all person as at any time claiming the same or any interest therein.

B. Trustor shall not lease, sell, convey or in any manner transfer the Collateral without the prior written consent of Beneficiary, except such portions or items of Collateral that are consumed or worn out in ordinary usage, all of which shall be promptly replaced by Trustor.

C. Without Beneficiary's prior written consent and except as herein provided, Trustor shall not create, incur, assume, or suffer to exist any security agreement or any other lien or encumbrance with respect to the Collateral, or any portion thereof, nor shall Trustor sign or file or authorize the signing or filing of any financing statement(s) under the Uniform Commercial Code of any jurisdiction with respect to the Collateral or any portion thereof.

D. The Collateral is not used or bought for personal, family or household purposes.

E. The Collateral shall be kept on or at the Property and Trustor shall not remove the Collateral from the Property without the prior written consent of Beneficiary, except such portions or items of Collateral that are consumed or worn out in ordinary usage, all of which shall be promptly replaced by Trustor.

F. If Beneficiary so demands in writing, all chattel paper, instruments, and/or all proceeds of any and all of the Collateral shall be delivered to Beneficiary at the time and place and in the manner specified by such demand.

G. Trustor shall maintain a place of business in the State of Oregon and shall immediately notify Beneficiary in writing of any change in the place of business set forth in the beginning of this Deed of Trust.

H. All covenants and obligations of Trustor contained herein relating to the Trust Estate shall be deemed to apply to the Collateral whether or not expressly referred to herein.

7.03 Remedies. This Deed of Trust is also a security agreement pursuant to the Oregon Uniform Commercial Code with respect to the Collateral, and Beneficiary shall have all of the rights and remedies of a secured party under the Oregon Uniform Commercial Code as well as all other rights and remedies available at law or in equity. Upon the occurrence of any Event of Default hereunder (taking into account any applicable cure period), Beneficiary shall have the right to cause any of the Collateral which is personal property to be sold at any one or more public or private sales as permitted by applicable law, and Beneficiary shall further have all other rights and remedies, whether at law, in equity or by statute, as are available to secured creditors under applicable law. Any such disposition may be conducted by an employee or agent of Beneficiary or Trustee. Any person, including both Trustor and Beneficiary, shall be eligible to purchase any part or all of such Collateral at any such disposition. Trustor, upon demand of Beneficiary, shall assemble the Collateral and make it available to Beneficiary at the Property, a place which is hereby deemed to be reasonably convenient to Beneficiary and Trustor. Beneficiary shall give Trustor at least five (5) business days' prior written notice of the time and place of any public sale or other disposition of such Collateral or of the time of or after which any private sale or any other intended disposition is to be made, and if such notice is sent to Trustor in the manner provided for the mailing of notices herein, Trustor hereby acknowledges such notice shall be and is reasonable notice to Trustor. Expenses of retaking, holding, preparing for sale, selling or the like shall be borne by Trustor and shall include Beneficiary's and Trustee's attorneys' fees and legal expenses.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES UPON DEFAULT

8.01 Events of Default. Any of the following events shall be deemed an event of default ("Event(s) of Default") hereunder:

A. Default (without cure during the applicable period, if any, for cure) shall be made in the payment of any installment of principal or interest or any other sum secured hereby when due; or

B. Default (without cure during the applicable period, if any, for cure) shall be made in the performance on the part of Trustor of any obligation, term, covenant, condition or warranty of the Loan Instruments, the Loan Application and Commitment Terms and Conditions with respect to the loan secured hereby, the Leases, any agreement relating to the Property, or any other agreement made in connection with the Indebtedness

between Beneficiary and Trustor, or any wholly-owned subsidiary of Trustor; or

C. Trustor or any other party that may be liable upon the Indebtedness by guarantee or by execution of the Note or any additional note(s), assumption, endorsement or otherwise, or any of the lessees under the Leases, shall file or have filed against it any petition in bankruptcy (whether for liquidation or reorganization) or an order for relief shall be entered as to it under any bankruptcy or reorganization law; or Trustor or any such party shall file any petition or answer seeking or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors; or Trustor or any such party shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of Trustor or such other party or of all or any part of the Trust Estate or of any or all of the Rents, or shall make any general assignment for the benefit of creditors, or shall be unable to pay its debts as they become due, or shall admit in writing its inability to pay its debts generally as they become due; provided, however, that Beneficiary's right as a result of such an action by a lessee shall be limited to the right to take the actions specified herein with respect to the applicable lessee and Lease; or

D. A court of competent jurisdiction shall enter an order, judgment or decree approving a petition, filed against Trustor or any such other party referred to in the immediately preceding subparagraph, seeking any reorganization, dissolution or similar relief under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors and such order, judgment or decree shall remain unvacated and unstayed for thirty (30) days (whether or not consecutive) from the first day of entry thereof; or any trustee, receiver or liquidator of Trustor or of all or any part of the Trust Estate or of any or all of the Rents shall be appointed without the consent and acquiescence of Trustor and such appointment shall remain unvacated and unstayed for thirty (30) days (whether or not consecutive); or

E. A writ of execution or attachment or any similar process shall be issued or levied against all or any part of or interest in the Trust Estate, or any judgment involving monetary damages shall be entered against Trustor which shall become a lien on the Trust Estate or any portion thereof or interest therein and such execution, attachment or similar process or judgment is not released, bonded, satisfied, vacated or stayed within sixty (60) days after its entry or levy; or

F. The assignment by Trustor, as lessor or sublessor, as the case may be, of the Rents or any part thereof

(other than to Beneficiary) without the prior written consent of Beneficiary; or

G. The failure of Trustor to notify Beneficiary in writing immediately after damage or loss to the Property by reason of fire or other casualty, and prior to the making of any repairs thereto, or Trustor's refusal to permit Beneficiary to inspect, within ten (10) days after written notice from Trustor, such damage or loss prior to the making of any repairs thereto; or

H. The failure of Trustor to pay any tax, stamp tax, insurance premium, water rate, sewer rate, assessment or any other charge or payment imposed by any governmental or public authority prior to delinquency, or any insurance premium, repair charge, rent charge, inspection fee, lien attorneys' fee or other amount properly payable hereunder; or to pay and discharge any lien or encumbrance pursuant to Paragraph 4.14 hereof; or

I. The failure of Trustor for a period of twenty (20) days after written notice from Beneficiary to: (i) maintain, or proceed with all due diligence to maintain, the Property in a good and tenantable state of repair; (ii) comply, or proceed with all due diligence to comply, with any order of any government department claiming jurisdiction of the Property; or (iii) comply, or proceed with all due diligence to comply, with all and singular the statutes, requirements, orders and/or decrees of any federal, state or municipal authority relating to the use of the Property or any part thereof; or

J. Except as permitted in Paragraph 5.03 hereof, (i) the existence of any interests in the Property other than those of Trustor, Beneficiary, and any tenants of Trustor; or (ii) the sale, conveyance, assignment, transfer, further encumbrance, alienation or other disposition of, or the grant of a security interest in, the Property, all of which shall be Events of Default; or

K. Any representation or warranty made by Trustor hereunder or in, under or pursuant to the Loan Instruments or in the application for the loan (or in the related documents) shall have been false or misleading in any material respect as of the date on which such representations or warranty was made; or

L. Any of the Loan Instruments, (other than this Deed of Trust) at any time after their respective execution and delivery and for any reason, shall cease to be in full force and effect or shall be declared to be null and void, or the validity or enforceability thereof shall be contested by Trustor, or any stockholder or partner of Trustor or Trustor shall deny that it has any further liability or obligation under any of the Loan Instruments to which it is a party; or

M. Any of the Loan Instruments, at any time after their respective execution and delivery and for any reason, shall cease to constitute valid and subsisting liens and/or valid and perfected security interests in and to the property purported to be subject to such of the Loan Instruments; or

N. Dissolution or termination of existence of Trustor.

The enumeration of specific defaults above which are also covenants herein shall not create any implication that other defaults which are also covenants but are not specifically enumerated are of lesser dignity.

8.02 Acceleration Upon Default, Additional Remedies.
Upon the occurrence of any Event of Default, Beneficiary may, at its option and without notice or demand upon Trustor, exercise any one or more of the below acts:

A. Declare all Indebtedness to be immediately due and payable and the same shall thereupon become due and payable without any presentment, demand, protest or notice of any kind.

B. In person or by agent or by a receiver appointed by a court, with or without bringing any action or proceeding and without regard to the adequacy of its security, the solvency of Trustor or the existence of waste, enter upon, take possession of, manage and operate the Trust Estate, or any part thereof, in its own name or in the name of Trustee, and do any acts that it deems necessary or desirable to preserve the value, marketability or rentability of the Trust Estate, or part thereof or interest therein, to increase the income therefrom or to protect the security thereof. The entering upon and taking possession of the Trust Estate, the collection of such Rents and the application thereof as aforesaid shall not cure or waive any default or notice of default hereunder or invalidate any act done in response to such default, the enforcement of such right or remedy by Beneficiary, once exercised, shall continue for so long as Beneficiary shall elect notwithstanding that the collection and applications of the Rents may have cured for the time the original default, and, notwithstanding the continuance in possession of the Trust Estate or the collection, receipt and application of Rents, Trustee or Beneficiary shall be entitled to exercise every right provided for in any of the Loan Instruments or by law upon occurrence of any Event of Default, including the right to exercise the power of sale;

C. Elect to exercise its rights with respect to the Leases and Rents under Article I hereof;

D. Commence an action to foreclose this Deed of Trust as a mortgage, appoint a receiver, or specifically enforce any of the covenants hereof;

E. Deliver to Trustee a written declaration of default and demand for sale, and a written notice of default and election to cause Trustor's interest in the Trust Estate to be sold, which notice Trustee or Beneficiary shall cause to be duly filed for record in the Official Records of the county in which the Trust Estate is located;

F. Proceed as to both the real and personal property in accordance with Beneficiary's rights and remedies in respect of the Property, or proceed to sell any personal property separately and without regard to the Property in accordance with Beneficiary's rights and remedies; or

G. Exercise any or all of the other Rights and Remedies provided for herein or available under law or in equity.

8.03 Foreclosure by Power of Sale. Should Beneficiary elect to foreclose by exercise of the power of sale herein contained, Beneficiary shall direct Trustee, and Trustee shall be empowered, to foreclose the Property by advertisement and exercise of the power of sale under applicable law.

8.04 Protection of Security. If an Event of Default shall have occurred and shall be continuing, then Beneficiary or Trustee, but without obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligations or defaults hereunder, may: (i) make, perform or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary and Trustee being authorized to enter upon the Property for such purpose; (ii) appear in and defend any action or proceeding purporting to affect Trustor's obligations and/or the Note, the security hereof or the rights or powers of Beneficiary or Trustee; (iii) pay, purchase or compromise any encumbrance, charge or lien that in the judgment of Beneficiary or Trustee is prior or superior hereto; and (iv) in exercising any such powers, pay necessary expenses, employ counsel and pay reasonable attorneys' fees. Trustor hereby agrees to repay upon demand all sums expended by Trustee or Beneficiary pursuant to this Paragraph with annual interest from the date of expenditure at the Default Rate (as defined in the Note), and such sums with interest, shall be secured hereby.

8.05 Appointment of Receiver. If an Event of Default shall have occurred and be continuing, Beneficiary, as a matter of right and without notice to Trustor or anyone claiming under Trustor, and without regard to the then value of the Trust Estate or the interest of Trustor therein, shall have the right to apply to any court having jurisdiction to appoint a receiver or receivers of the Trust Estate, and Trustor hereby irrevocably consents to such appointment and waives notice of any application therefor. Any such receiver or receivers shall have all the

usual powers and duties of receivers in like or similar cases and all the powers and duties of Beneficiary in case of entry as provided in Paragraph 8.02(A) and shall continue as such and exercise all such powers until the date of confirmation of sale of the Trust Estate unless such receivership is sooner terminated.

8.06 Remedies Not Exclusive. Trustee and Beneficiary, and each of them, shall be entitled to enforce payment and performance of any indebtedness or obligations secured hereby and to exercise all rights and powers under this Deed of Trust or under any Loan Instrument or other agreement or any laws now or hereafter in force, notwithstanding that some or all of said indebtedness and obligations secured hereby may now or hereafter be otherwise secured, whether by mortgage, deed of trust, pledge, lien, assignment or otherwise. Neither the acceptance of this Deed of Trust nor its enforcement, whether by court action or pursuant to the power of sale or other powers herein contained, shall prejudice or in any manner affect Trustee's or Beneficiary's right to realize upon or enforce any other security now or hereafter held by Trustee or Beneficiary, it being agreed that Trustee and Beneficiary and each of them, shall be entitled to enforce this Deed of Trust and any other security now or hereafter held by Beneficiary or Trustee in such order and manner as they or either of them may in their absolute discretion determine. No remedy herein conferred upon or reserved to Trustee or Beneficiary is intended to be exclusive of any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. Every power or remedy given by any of the Loan Instruments to Trustee or Beneficiary, or to which either of them may be otherwise entitled, may be exercised concurrently or independently, from time to time and as often as may be deemed expedient by Trustee or Beneficiary, and either of them may pursue inconsistent remedies.

8.07 Prepayment. The Note provides as follows in Paragraph 3 thereof:

"3. Restrictions on Prepayment.

(a) This loan may not be prepaid in whole or in part before January 1, 1989. No more than two (2) prepayments of principal may be made in any calendar year. No voluntary prepayments shall be allowed except as set forth herein.

(b) During the thirty (30) day period immediately prior to January 1, 1993, regardless of whether Holder exercises its right to adjust the Note Rate pursuant to Paragraph 7, Maker may, without charge, prepay the entire principal balance plus accrued interest, plus any other sums due under the Note and under the Mortgage.

(c) From and after January 1, 1989, Maker may prepay the entire principal balance hereunder, or any part thereof, provided that Maker shall have given Holder at least thirty (30) days prior written notice of Maker's intention to make such prepayment and the date upon which such prepayment will be made, and, except as provided in Paragraph 3(b), there shall be paid to Holder concurrently with the prepayment, together with all then accrued interest and any and all other amounts then due under the Note, a prepayment charge equal to the greater of:

- (i) One percent (1%) of the principal balance so paid; or
- (ii) an amount equal to the product obtained by multiplying (a) the difference between (i) the Note Rate at the time of such prepayment, and (ii) the sum of the yield rate on 8-5/8% United States Treasury Bonds due August, 1997, as reported in the Wall Street Journal or similar publication on the fifth (5th) business day preceding the prepayment date, and one hundred (100) basis points ("Yield Rate") by (b) the number of days between such prepayment date and January 1, 1993, or the Maturity Date, whichever is next following the prepayment date, divided by 365 with the quotient being rounded to two decimal places, by (c) the amount of principal balance to be prepaid, and (d) discounting said sum to its then present value utilizing a discount factor equal to the Yield Rate.
- (iii) Maker acknowledges that the prepayment charge provided in Subparagraph 3(c)(i) hereof is intended to compensate Holder for transactional costs which it reasonably anticipates it will incur in reinvesting the prepaid amounts. Maker further acknowledges that such sum is difficult or impossible to accurately calculate at this time.

(d) The giving of notice of prepayment pursuant to (c) above shall create an obligation to make such prepayment, and the amount thereof, together with the prepayment charge thereon, shall be due and payable, and such obligation shall mature, upon the date for prepayment specified in such Notice. No prepayment charge not previously accrued shall be due at the Maturity Date.

(e) For purposes of this Note, "prepayment" shall mean any instance wherein the debt evidenced hereby is fully or partially satisfied in any manner, whether voluntarily or

involuntarily (excluding scheduled payments required hereunder, the receipt of insurance proceeds, or the proceeds of any condemnation or eminent domain proceeding, including without limitation proceeds for a deed in lieu thereof), prior to the Maturity Date and any extension thereof. Such prepayment shall include, but not be limited to: (i) any payment after default hereunder; (ii) payment by any holder of a subordinate interest in the encumbered property; (iii) any payment after the stated maturity hereof (and any extension thereof) is accelerated for any reason permitted hereunder including without limitation any acceleration of the Maturity Date resulting from the exercise of Holder's rights under this Note or the Deed of Trust; (iv) payment resulting from any sale or transfer pursuant to judicial order or trustee's sale under the Deed of Trust; and (v) payment by sale, transfer, payment or offsetting credit in connection with or under any bankruptcy, insolvency, reorganization, assignment for the benefit of creditors or receivership proceedings under any statute of the United States or any state thereof, where any of the Property is located. In the event of any acceleration of the Maturity Date hereunder, the amount due shall include the charge which would be due under the prepayment privilege in the event of a voluntary prepayment at the time of such acceleration; or, if at time of such acceleration there is no such privilege of voluntary prepayment, then the prepayment charge shall be equal to one and one-half (1-1/2) times the amount which would otherwise be due under the formula provided for in this paragraph above, the date of acceleration of the Maturity Date being deemed to be the date of prepayment. The parties hereto acknowledge that Oregon law regarding the enforceability of a prepayment charge under certain circumstances may not be fully settled. Accordingly, they have resolved the issue in advance by negotiation, both parties being represented by counsel (or having the opportunity to consult counsel), Maker expressly agrees: (i) that the prepayment charge provided for herein is reasonable, (ii) to pay any such charge, even upon acceleration of the maturity date of the obligation hereunder, (iii) that the prepayment charge shall be payable irrespective of the then prevailing market rates existing at the time such prepayment is due; (iv) that it expressly waives any statutory provisions relating to prepayment upon acceleration of the Maturity Date, and (v) that it shall be estopped hereafter from claiming differently than as agreed to in this Paragraph.

Maker's Initials "

8.08 Request for Notice. Trustor hereby requests a copy of any notice of default and that any notice of sale hereunder be mailed to it at the address set forth in the first paragraph of this Deed of Trust.

ARTICLE IXCOVENANTS REGARDING ENVIRONMENTAL COMPLIANCE

9.01 Trustor covenants and agrees as follows:

(A) Trustor will not use, generate, manufacture, produce, store, release, discharge, or dispose of on, under or about the Property or transport to or from the Property any Hazardous Substance (as defined herein) or allow any other person or entity to do so.

(B) Trustor shall keep and maintain the Property in compliance with, and shall not cause or permit the Property to be in violation of any Environmental Law (as defined herein).

(C) Trustor shall give prompt written notice to Beneficiary of:

(1) any proceeding or inquiry by any government authority with respect to the presence of any Hazardous Substance on the Property or the migration thereof from or to other property;

(2) all claims made or threatened by any third party against Trustor or the Property relating to any loss or injury resulting from any Hazardous Substance; and

(3) Trustor's discovery of any occurrence or condition on the Property or on any real property adjoining or in the vicinity of the Property that could cause the Property or any part thereof to be subject to any restrictions on the ownership, occupancy, transferability or use of the Property under any Environmental Law.

(D) Trustor shall protect, indemnify and hold harmless Beneficiary and its directors, officers, employees, agents, successors and assigns from and against any and all loss, damage, cost, expense or liability (including attorneys' fees and costs) directly or indirectly arising out of or attributable to the use, generation, manufacture, production, storage, release, threatened release, discharge, disposal, or presence of a Hazardous Substance on, under or about the Property. This indemnity shall not survive the reconveyance of the lien of this Indenture, or the extinguishment of the lien by foreclosure or action in lieu thereof, and this covenant shall not survive such reconveyance or extinguishment.

(E) "Environmental Laws" shall mean any federal, state or local law, statute, ordinance or regulation

pertaining to health, industrial hygiene or the environmental conditions on, under or about the Property.

(F) The term "Hazardous Substance" shall include those substances, materials and wastes which are or become classified as hazardous or toxic under federal, state or local laws or regulations.

ARTICLE X

MISCELLANEOUS

10.01 Governing Law; Severability. This Deed of Trust shall be governed by the laws of the State of Oregon. In the event that any provision or clause of any of the Loan Instruments conflicts with applicable laws, such conflicts shall not affect other provisions of such Loan Instruments which can be given effect without the conflicting provision, and to this end, the provisions of the Loan Instruments are declared to be severable.

10.02 Amendment; No Implied Waiver. This instrument cannot be modified, waived, discharged or terminated orally, but only by a written instrument signed by the party against whom enforcement of the modification, waiver, discharge or termination is asserted. No waiver by Beneficiary of any default or breach by Trustor hereunder shall be implied from any omission by Beneficiary to take action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default identified in the waiver and such waiver shall be operative only for the time and to the extent therein stated. Waivers of any covenant, term or condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term or condition. The consent or approval by Beneficiary to or of any act by Trustor requiring further consent or approval shall not be deemed to waive or render unnecessary the consent or approval to or of any subsequent similar act.

10.03 Reconveyance by Trustee. Upon written request of Beneficiary stating that all sums secured hereby have been paid, and upon surrender of this Deed of Trust and the Note to Trustee for cancellation and retention and upon payment by Trustor of Trustee's fees, Trustee shall reconvey to Trustor, or the person or persons legally entitled thereto, without warranty, any portion of the Trust Estate then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The grantee in any reconveyance may be described as "the person or persons legally entitled thereto."

10.04 Notices. Whenever Beneficiary, Trustor or Trustee shall desire to give or serve any notice, demand, request or other communication with respect to this Deed of Trust, each such notice, demand, request or other communication shall be in writing and shall be effective only if the same is delivered by personal service or mailed by registered mail, postage prepaid, return receipt requested, addressed to the address set forth at the beginning of this Deed of Trust. Any such notice, demand, request or other communication to Beneficiary shall indicate, "Attention: Real Estate Investment Department." Any party may at any time change its address for such notices by delivering or mailing to the other parties hereto, as aforesaid, a notice of such change.

10.05 Invalidity of Certain Provisions. If the lien of this Deed of Trust is invalid or unenforceable as to any part of the debt, or if the lien is invalid or unenforceable as to any part of the Trust Estate, the unsecured or partially secured portion of the debt shall be completely paid prior to the payment of the remaining and secured or partially secured portion of the debt, and all payments made on the debt, whether voluntary or under foreclosure or other enforcement action or procedure, shall be considered to have been first paid on and applied to the full payment of that portion of the debt that is not secured or fully secured by the lien of this Deed of Trust.

10.06 Subrogation. To the extent that proceeds of the Note are used, directly or indirectly, to pay off, satisfy or discharge, in whole or in part, any outstanding lien, charge or prior encumbrance against the Trust Estate or any part thereof, then as additional security hereunder Beneficiary shall be subrogated to any and all rights, superior titles and liens owned or claimed by any owner or holder of such outstanding liens, charges and prior encumbrances, however remote and irrespective of whether said liens, charges or encumbrances have been released of record by the holder thereof upon payment.

10.07 Successor Trustee. Beneficiary may, from time to time, by written instrument executed and acknowledged by Beneficiary, mailed to Trustor and recorded in the county in which the Trust Estate is located, and by otherwise complying with the provisions of the applicable law of the State of Oregon, substitute a successor or successors to the Trustee named herein or acting hereunder.

10.08 Attorney's Fees. If Beneficiary refers the Note or Deed of Trust to any attorney for collection or seeks legal advice following a default alleged in good faith under the Note or Deed of Trust; or, if Beneficiary is the prevailing party in any action (and any appeal therefrom) instituted on the Note or Deed of Trust; or, if any other judicial or non-judicial proceeding is instituted by Beneficiary or any other person and an

attorney is employed by Beneficiary to appear in any such action or proceeding (and any appeal therefrom), or in any action (and any appeal therefrom) that materially affects Beneficiary's interest in the Note or the Property, or to reclaim, seek relief from a judicial or statutory stay, sequester, protect, preserve or enforce Beneficiary's interest in the Deed of Trust or any other security for the Note, (including but not limited to proceedings under federal bankruptcy law, in eminent domain, under the probate code, or in connection with any state or federal tax lien), then Trustor and every person who assumes the obligations evidenced by the Note or Deed of Trust jointly and severally promise(s) to pay reasonable attorneys' fees for services performed by Beneficiary's attorneys, and all reasonable costs and expenses incurred incident to such employment (such fees, costs and expenses are referred to herein as "Attorneys Fees"). If Attorneys Fees are not paid within ten (10) days of demand therefor by Beneficiary, the Attorneys Fees shall bear interest at the Default Rate and its repayment shall also be secured by every Loan Document.

10.09 Headings. Headings are for convenience only and are not intended as a limitation on the content of the paragraph following nor as an aid to the construction thereof.

10.10 Successors and Assigns; Gender. Except as provided to the contrary herein, the terms, covenants, conditions and warranties contained herein are the powers granted hereby shall run with the land, shall inure to the benefit of and bind all parties hereto and their respective heirs, executors, administrators, successors and assigns, and all subsequent owners of the Property, and all subsequent holders of the Note and this Deed of Trust. In this Deed of Trust, whenever the context so requires, the masculine gender shall include the feminine and/or neuter and the singular number shall include the plural and conversely in each case. All obligations of each Trustor hereunder shall be joint and several.

10.11 Deed of Trust as Financing Statement. This Deed of Trust is intended to constitute a security agreement between Trustor and Beneficiary. The Recording of this Deed of Trust shall be effective as a financing statement filed as a fixture filing with respect to all fixtures included within the Property and is to be recorded with the appropriate authority where the Property (including said fixtures) is situated. The mailing address of Trustor is set forth above on the first page of this Deed of Trust and the address of Beneficiary from which information concerning the security interest may be obtained is set forth above on the first page of this Deed of Trust.

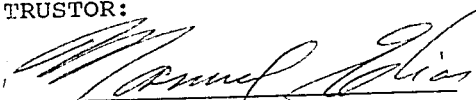
10.12 Waiver of Non-Obligated Persons. Notwithstanding any other provision in this Deed of Trust, any person who executes this Deed of Trust but not the Note secured hereby shall

have no personal liability on the Note or for any deficiency judgment which may be obtained upon foreclosure. Such persons jointly and severally waive presentment, demand, protest and all notices and agree that Beneficiary, without notice to them or their consent, and upon such terms as Beneficiary may deem advisable, and without affecting in any way Beneficiary's rights hereunder, may (a) extend, release, surrender, exchange, compromise, discharge or modify any right or obligation secured by or provided by this Deed of Trust or any other instrument securing the loan or (b) take any other action which Beneficiary may deem reasonably appropriate to protect its security interest in the Property.

10.13 Reclamation Representation. In the event the Property is receiving irrigation water under the provisions of the Federal Reclamation Laws, Trustor covenants to Beneficiary that the Property does not constitute "excess lands" or "formerly excess lands" under the Federal Reclamation Laws and/or rules and regulations promulgated thereunder. The Trustor further agrees to comply with all Federal Reclamation Laws, and the rules and regulations and requirements promulgated thereunder so that Trustor and Trustor's assigns and successors shall be eligible for the continued delivery of irrigation water to the Property.

IN WITNESS WHEREOF, Trustor has caused this Deed of Trust to be executed as of the day and year first above written.

TRUSTOR:


Manuel Elias

ACKNOWLEDGMENT

STATE OF OREGON

COUNTY OF Klamath

)
) SS.

COUNTY OF Klamath,
This instrument was acknowledged before me on this 5th day
day of ~~July~~, 1988, by Manuel Elias.
August

August



Debra Buckingham
Notary Public for Oregon
My commission expires: 12-19-88

Legal Description
Mabel Elias

B-300

Loan No. 205021 9 (0252)

EXHIBIT "A"

DESCRIPTION OF PROPERTY

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

Tract 1

A piece or parcel of land being portions of Sections 31 and 32, Township 34 South, Range 7½ East of the Willamette Meridian and Sections 5 and 6 of Township 35 South, Range 7½ East of the Willamette Meridian, situate in Klamath County, Oregon, and more particularly described as follows:

Beginning at the Southwesterly corner of Section 31, Township 34 South, Range 7½ East of the Willamette Meridian and running thence Northerly along the range line marking the Westerly boundary of the said Section 31, 3340.5 feet; thence Easterly parallel with and 3340.5 feet distant at right angles Northerly from the township line between Township 34 South, Range 7½ East of the Willamette Meridian and Township 35 South, Range 7½ East of the Willamette Meridian, 10,560 feet, more or less, to a point in the section line marking the Easterly boundary of the said Section 32, Township 34 South, Range 7½ East of the Willamette Meridian; thence southerly along the said section line 3340.5 feet, more or less, to the Southeasterly corner of the said Section 32; thence Southerly along the section line marking the Easterly boundary of the said Section 5, Township 35 South, Range 7½ East of the Willamette Meridian, 788.3 feet; thence Westerly, parallel with and 788.3 feet distant at right angles Southerly from the said Township line between Township 34 South, Range 7½ East of the Willamette Meridian and Township 35 South, Range 7½ East of the Willamette Meridian, 10,560 feet, more or less, to a point in the range line marking the Westerly boundary of the said Section 6, Township 35 South, Range 7½ East of the Willamette Meridian; thence Northerly along the said range line 788.3 feet, more or less, to said point of beginning.

Tract 2

A piece or parcel of land being portions of Section 29, 30, 31 and 32, Township 34 South, Range 7½ East of the Willamette Meridian, situate in Klamath County, Oregon, and more particularly described as follows:

Beginning at a point in the range line marking the Westerly boundary of the said Section 30, Township 34 South, Range 7½ East of the Willamette Meridian, which is 394.1 feet Southerly from the Southeasterly corner of Section 24, Township 34 South, Range 6 East of the Willamette Meridian, as the same was established by Norman D. Price, U. S. Cadastral Engineer, between October 31, 1930 and June 22, 1931, and running thence Easterly to the Northwesterly corner of the said Section 29, Township 34 South, Range 7½ East of the Willamette Meridian; thence Easterly along the Northerly boundary of the said Section 29, Township 34 South, Range 7½ East of the Willamette Meridian, 4905.3 feet, more or less, to a point in a line parallel with and 70 feet distant at right angles Southeasterly from the center line of Dixon and McQuiston Lower Levee as the same is now located and constructed; thence South 44°40' West, along said parallel line 349.8 feet; thence South 12°30' East, leaving said parallel line 2622.3 feet, more or less, to a point in the section line marking the Easterly boundary of the said Section 29; thence Southerly along the said section line and the section line marking the Easterly boundary of said Section 32, Township 34 South, Range 7½ East of the Willamette Meridian, 4588 feet, more or less, to a point 3340.5 feet Northerly from the

Legal Description
Manuel Elias

Southeasterly corner of the said Section 32; thence Westerly parallel with and 3340.5 feet distant at right angles Northerly from the township line between Township 34 South, Range 7½ East of the Willamette Meridian and Township 35 South, Range 7½ East of the Willamette Meridian, 10,560 feet, more or less, to a point in the range line marking the Westerly boundaries of the said Sections 30 and 31, Township 34 South, Range 7½ East of the Willamette Meridian; thence Northerly along said range line; 7131 feet, more or less, to the said point of beginning.

EXCEPTING THEREFROM any portion of the above described parcel lying Northerly of the South line of that property described as Parcel 2 in Deed from Puckett & Scherer, a co-partnership to d'Artenay Brothers, a co-partnership, recorded August 2, 1961, in Deed Volume 331 at page 367, Klamath County Deed Records.

Tract 3 The E½SE¼, the SE¼NE¼ and the E½SW¼SE¼ of Section 24, Township 34 South, Range 6 East of the Willamette Meridian.

Tract 4 That portion of land lying between the range line of Ranges 6 and 7½ East and the center line of the 4 Mile Canal, being more fully described as follows:

Starting from the section corner common to Sections 19, 30, 24 and 25, Township 34 South, Ranges 6 and 7½ East of the Willamette Meridian; thence Northerly North 0°32' East a distance of 3874.8 feet; thence Easterly North 90° East a distance of 98.0 feet, more or less, to the center line of the 4 Mile Canal; thence Southerly along the said center-line of the 4 Mile Canal, as the same is now located and constructed, South 0°03' West a distance of 4084.8 feet; thence Westerly North 88°57' West a distance of 134.5 feet, more or less, to a point on the section line between Sections 25 and 30; thence Northerly North 0°32' East, a distance of 207.6 feet, more or less, to the point of beginning.

Tract 5 That portion of the property lying North of the South boundary of the 7 Mile Ranch as the same is now located and deeded to a line 8 feet North of the North edge of the East-West Canal along the South side of the 7 Mile Ranch, more fully described as follows:

Starting from the section corner common to Sections 19, 30, 24 and 25, Township 34 South, Ranges 6 and 7½ East of the Willamette Meridian; thence South 0°32' West a distance of 394.1 feet to the point of beginning; thence Easterly South 89°50' East a distance of 10,160.7 feet; thence Northerly North 0°00' East to a point in line with a line 8.0 feet North and parallel with the North edge of the East-West Canal on the 7 Mile Ranch, as the same is now located and constructed; thence Westerly, along the said parallel line North 88°57' West a distance of 10,162.4 feet, more or less, to a point on the section line between Sections 25 and 30; thence Southerly South 0°32' West a distance of 186.5 feet to the point of beginning.

Legal Description
Manuel Elias

7-300

Loan No. 205021 9 (0252)

Page 3

EXCEPTING THEREFROM any portion of the above described parcel conveyed to Tulana Farms by Deed recorded February 20, 1947, in Deed Volume 202 at page 411, Klamath County Deed Records.

TOGETHER WITH an easement for a 60 foot roadway for ingress and egress with the right to maintain same along the Westerly line of Sections 6, 7, 18 and 19, Township 34 South, Range 7½ East of the Willamette Meridian, as shown by easement recorded in Deed Volume 215 at page 11, Klamath County Deed Records and further conveyed by grantee to the vestees herein by documents recorded in Deed Volume 346 at page 73 and Deed Volume 346 at page 74, Klamath County Deed Records.

EXCEPTING from all of the above described parcels, any rights of way for ditches and canals, of the Meadows Drainage District and the United States.

Tract 6

A parcel of land situated in Sections 19 and 30, Township 34 South, Range 7½ East of the Willamette Meridian, in the County of Klamath, State of Oregon, being more particularly described as follows:

Beginning at a point in the centerline of Four Mile Canal from which a 1" iron pipe with a 2" bronze cap (set by M. D. Price in 1931) marking the section corner common to Sections 19, 24, 25 and 30, Township 34 South, Range 6 and 7½ East, bears South 73°24'13" West - 134.35 feet, more or less; thence South 88°59'26" East 61.97 feet, more or less, to a ½" rebar; thence South 4°34'08" East - 80.14 feet to a ½" rebar; thence South 39°58'12" East - 137.90 feet to a ½" rebar; thence South 1°08'24" West - 61.14 feet to a ½" rebar, which point is 8.0 feet North of an East-West Canal; thence Westerly - 155.72 feet, more or less, along a line 8.0 feet North of said East-West Canal and a projection thereof to the centerline of Four Mile Canal; thence Northerly 247.78 feet, more or less, along the centerline of Four Mile Canal to the Point of beginning.

EXHIBIT "B"
to
DEED OF TRUST

The following exceptions in the attached amended preliminary report (No. K-40620) from Klamath County Title Company dated as of May 24, 1988 shall be permitted exceptions in connection with the lien of this Deed of Trust.

Exception Numbers 2, 3, 4, 5, 6,
7, 8, 9, 10, 11, 12, 13, 14, 15,
16, 17, 18 and 19.

EXHIBIT CDescription of Personal Property

- 1 - 1978 Kit (Royal Oak) Mobile Home, Serial No. 6294, together with concrete piers and skirt.
- 1 - 10T. Capacity, Howe Richardson Cattle Scale.
- 1 - Model UD24, International Diesel Engine, Serial No. UDF80 w/pump.
- 1 - 10 H.P. Reliance Electric Motor, Serial No. 2YAB05449A3SE w/Pacific Centrifugal Pump.
- 1 - 10 H.P. U.S. Electric Motor, Serial No. 62082-2Z-J-1C3 w/Johnson Centrifugal Pump.
- 3 - 15 H.P., G.E. Electric Motors, Serial Nos. KAJ1006344, KAJ1006343, KAJ1006345, w/Jemco Submersible Pumps.
- 1 - 15 H.P., G.E. Electric Motor, Serial No. 6210-2Z-J-1C3 w/Johnson Centrifugal Pump.

Together with all wiring, switch panels, column, shatting, tubing, etc. pertaining to the above listed pumps and motors.

A set of corrals with loading & unloading facilities, constructed of tie & plank with powder river gates. Twenty miles of the 4-6 strand barbed wire fence with tie posts.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County Title Co. the 15th day of Aug. A.D., 19 83 at 8:33 o'clock A.M., and duly recorded in Vol. M88 of Mortgages on Page 13111.

FEE \$188.00

Evelyn Biehn County Clerk

By Andrew Mulendore