

MTL-20219L
 AGREEMENT TO MODIFY NOTE AND MORTGAGE/DEED OF TRUST

Effective on November 1, 1988 the undersigned, Nelson E. Somers and Barbara A. Somers, husband and wife

hereinafter referred to as "Borrower," and the Farm Credit Bank of Spokane, a corporation, successor in merger to The Federal Land Bank of Spokane, hereinafter referred to as "Bank," agree that that certain note dated July 24, 1981, in the original principal sum of Four Hundred Ninety-five Thousand and 00 cents Dollars (\$495,000.00) and any amendments thereto (the "Original Note") shall be amended and restated in its entirety by the Note dated November 1, 1988, (the "Note"), being payable in installments, the last of which is due and payable on the first day of July, 2015. Borrower shall execute and deliver to Bank the Note upon execution of this Agreement. A Rider summarizing the terms and provisions of the Note is attached hereto as Exhibit 1 and by reference incorporated herein. The Note evidences the same debt evidenced by the Original Note. The Note and the Original Note both shall be cancelled upon full payment of the debt evidenced by the Note as provided herein.

The Original Note is secured by Mortgage or Deed of Trust recorded on August 11, 1981, as Instrument No. _____ in Book M-81 of Mortgages at page 14205, records of Klamath County, Oregon, encumbering the real property described therein, reference to which Mortgage or Deed of Trust as so recorded is hereby made for the terms thereof, and the description of said property. Such Mortgage or Deed of Trust and any other security documents which were executed and delivered to secure the payment of the Original Note (the "Security Documents") are modified by the terms of this Agreement and the Note. The Security Documents shall include any new Security Documents executed by Borrower in connection with the Note and this Agreement. The Security Documents shall secure the payment of the Original Note and the Note. Borrower and Bank agree that, except as herein modified, all other provisions of the Security Documents will remain in full force and effect as originally agreed upon.

Borrower agrees this Agreement and the Note modify the terms of the Original Note and Security Documents and provide for the indexing and adjustment of the interest rate, payment terms and balance due on the obligation.

Borrower agrees to maintain complete and accurate financial books and records for Borrower's business. Each of the undersigned Borrowers shall provide annually, within 90 days of the end of each Borrower's fiscal year, in a form prescribed by or acceptable to Bank, a current balance sheet and a current income and expense statement certified to be complete and accurate or, at the option of Bank, audited by an independent accountant at the expense of Borrower.

Within 30 days after execution of this Agreement, Borrower shall provide Bank with an endorsement to Bank's title insurance policy which endorsement shall insure the enforceability and continued first lien priority of the Mortgage or Deed of Trust. Borrower shall pay the premium and all other charges for the endorsement together with all fees and costs, including but not limited to appraisal, survey, recording, attorney's, or similar fees, incurred by Bank in evaluating the Application and preparing and recording this Agreement and any Security Documents (the "Premium, Fees and Costs").

Borrower agrees to take any action requested by Bank to complete, perfect or continue the Borrower's obligation or the lien and priority of the Security Documents. Borrower understands and agrees that Bank may record this Agreement or any memorandum thereof.

Upon execution of this Agreement, Borrower shall pay Bank a fee of — % of the unpaid principal balance of the Original Note (the "Conversion Fee"). Borrower's obligation to pay the Conversion Fee and the Premium, Fees and Costs shall be treated for all purposes as a payment required under the Original Note and the Note. The Conversion Fee and the Premium, Fees and Costs shall not reduce any other amount due under the Original Note or the Note. If Borrower cannot provide the endorsement by the date required by

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this Agreement, Bank shall refund to Borrower the Conversion Fee minus the sum of any cancellation fee for the endorsement and any other Fees and Costs incurred by Bank. Bank and Borrower thereafter shall have no further obligations under this Agreement, and the Original Note shall continue in full force and effect, provided, however, any unpaid Premium, Fees and Costs shall be a payment required under the Original Note.

The following parties join in this instrument to consent to and affirm the Bank's lien position in collateral as established by Security Documents above described which collateral shall continue to be security for the debt evidenced by the Original Note and the Note; provided, however, said parties assume no liability for payment of the debt and shall not be bound by the personal covenants of this Agreement, the Note or the Security Documents: none.

Signed this 17 day of January, 1989

BORROWERS:

FARM CREDIT BANK OF SPOKANE

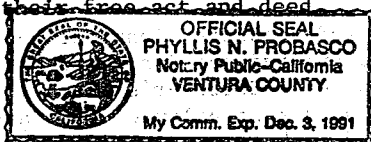
Nelson E. Somers
Nelson E. Somers

By: Greg Williams
Authorized Agent

Barbara A. Somers
Barbara A. Somers

STATE OF California)
: ss.
County of Ventura)

On this 13th day of January, 1989, before me personally appeared Nelson E. Somers and Barbara A. Somers, known to me to be the persons described in and who executed the within instrument, and acknowledged that they executed the same as their free act and deed



Phyllis N. Probasco
Notary Public for the State of Calif.
Residing at Fillmore, California
My commission expires Dec. 3, 1991

STATE OF Oregon)
: ss.
County of Klamath)

On this 17 day of January, 1989, before me personally appeared Greg Williams, known to me to be an authorized agent of the corporation that executed the within instrument, and acknowledged to me that such corporation executed the same as its free act and deed; and on oath stated that he/she was authorized to execute said instrument.

Linda Stelfe
Notary Public for the State of Oregon
Residing at Klamath Falls, Or
My commission expires 7/13/89

1008
12/23/89

EXHIBIT 1

VARIABLE RATE RIDER

THIS VARIABLE RATE RIDER ("Rider") is made this 1st day of November, 1988 and is incorporated into and amends and supplements that certain Agreement to Modify Note and Mortgage/Deed of Trust dated November 1, 1988 for the purpose of providing notice of the terms and provisions of the obligations evidenced by that certain Note (the "Note") given by the Borrower to Farm Credit Bank of Spokane ("Bank") or Bank's predecessor in merger, The Federal Land Bank of Spokane, dated November 1, 1988 for the principal sum of Four Hundred Eighty-three Thousand Six Hundred Sixty-seven and 69 cents----- (\$483,667.69).

1. INTEREST RATE AND ANNUAL PAYMENT CHANGES

The Note provides for an Initial Interest Rate. The Note provides for changes in the interest rate and the payments, as summarized below and pursuant to the default provisions of the Note.

- (a) Real Estate Variable Base Agricultural Rate: The Real Estate Variable Base Agricultural Rate ("Variable BAR") is a per annum interest rate determined from time to time by Bank in its sole discretion.
- (b) Variable Interest Rate Changes: Borrower shall pay interest on the Adjusted Principal Balance on and after each change in the Variable BAR at the per annum interest rate equal to the sum of the Variable BAR in effect on such date plus or minus a constant as described in the Note.
- ☐ (c) Partially Fixed Interest Rate: If checked, the Initial Interest Rate of the Note shall remain in effect until the first day of _____, _____, after which the interest shall be changed to a variable interest rate as described in Section 1(a) and (b) above. The Partially Fixed Interest Rate may increase in the event of default.

2. FIXED INTEREST RATE CONVERSION OPTION

The Note provides for the Borrower to convert from a variable interest rate to a fixed rate, as follows:

- (a) Option to Convert to Fixed Rate: If Bank is then offering a Fixed Interest Rate as determined under Section 2(b) below to new borrowers, Borrower may elect to change the interest rate to the Fixed Interest Rate on the first day of any month (the "Conversion Date") by payment of a fee of one percent of the Adjusted Principal Balance (the "Conversion Fee"). Borrower may not make such election if a default occurs and is uncured on or before the Conversion Date. Thereafter, the interest rate shall be changed on the Conversion Date as set forth in Section 2(b) below.
- (b) Fixed Interest Rate: The Fixed Interest Rate is the per annum interest rate which Bank in its sole discretion determines is appropriate for a new Fixed Interest Rate loan on the Conversion Date of an amount equal to the Adjusted Principal Balance with similar term and conditions to a borrower with the same credit characteristics as Borrower. Borrower shall pay interest on the Adjusted Principal Balance on and after the Conversion Date at the Fixed Interest Rate.

☐ If checked, the Note provides for a limit on the Variable and Fixed Interest Rate.

Nelson E. Somers
Nelson E. Somers

Barbara A. Somers
Barbara A. Somers

C. STANDARD PROVISIONS

1. Security: This Note is secured by a mortgage, deed of trust, and/or security agreement or other security documents covering certain real estate and/or personal property (the "Security Documents").
2. Events of Default and Remedies: Time is of the essence. Any of the following events shall constitute a "Default" under this Note.
 - a. The failure by Borrower to make any payment on the Payment Date.
 - b. The failure of Borrower to make any payment or perform any obligation when required to be paid or performed by the Security Documents or any other document or instrument executed by Borrower in connection with or related to this Note.
 - c. Any transfer, sale or conveyance or contract to transfer, sell or convey the title to all or any part of the real estate covered by the Security Documents, or of all or any part of the stock or ownership interest of any corporation, partnership, or other entity owning all or any part of the real estate covered by the Security Documents, whether voluntary, involuntary or by operation of law, without Bank's prior written consent.

Upon the occurrence of any Default hereunder:

- d. The unpaid principal balance, plus all accrued and unpaid interest thereon and all other amounts remaining due under this Note shall, at the option of Bank and without notice or demand of any kind to Borrower or any other person, immediately become due and payable ("Acceleration"); and on and after the date of Acceleration, Borrower shall pay Bank, on demand, interest on the unpaid principal balance, on all accrued and unpaid interest on the unpaid principal balance as of the date of Acceleration, and on all other amounts then or thereafter due under this Note, at a per annum rate of interest equal to the Current Interest Rate which if no default would have occurred would have been in effect on the date of Acceleration plus 4 percent per annum (the "Default Interest Rate") until all amounts due under this Note are paid in full.
- e. Bank shall have and may exercise any and all rights and remedies available at law or in equity and also any and all rights and remedies provided herein or in the Security Documents or any other document or instrument executed by Borrower in connection with or related to this Note. All such rights and remedies may be pursued singularly, successively or together, at the sole discretion of Bank, and may be exercised as often as occasion therefor shall arise. No act of omission or commission of Bank, including specifically any failure to exercise any right, remedy or recourse, shall be deemed to be a waiver or release of the same, such waiver or release to be effected only through a written document executed by Bank and then only to the extent specifically recited therein. A waiver or release with reference to any one event shall not be construed as a bar to, or as a waiver or release of, any subsequent right, remedy or recourse as to a subsequent event.
3. Advances: All advances made by Bank pursuant to the Security Documents or any other document or instrument executed by Borrower in connection with or related to this Note shall become a part of the debt evidenced by this Note. All such advances, plus interest thereon at the Current Interest Rate from the date of each such advance, shall be paid by Borrower to Bank on demand.
4. Fees and Costs: Borrower shall pay Bank on demand all attorney fees and costs incurred to collect any payment due under this Note, to foreclose or otherwise realize upon the real estate and/or personal property covered by the Security Documents, or to otherwise protect or enforce Bank's rights under this Note, the Security Documents or any other document or instrument executed by Borrower in connection with this Note ("Fees and Costs"),

including Fees and Costs incurred by Bank in connection with any state, federal, bankruptcy or appellate court proceeding. If Bank elects to charge interest on all or any portion of such Fees and Costs, Borrower shall pay interest thereon at the Current Interest Rate from the date such Fees and Costs or portion thereof are paid by Bank.

5. **Release and Extension:** Borrower(s) jointly and severally agree that Bank may at any time, without notice, release all or any part of the security for this Note; grant extensions, deferments, renewals or reamortizations of any part of the loan evidenced by this Note; and release from personal liability any one or more of the parties who are or may become liable for the loan evidenced by the Note without affecting the personal liability of any other party.
6. **Merger:** This Note, the Security Documents, the other documents and instruments executed by Borrower in connection with or related to this Note, and the application, financial statements, valuation reports or other documents submitted by Borrower to induce the granting of the loan evidenced by this Note supersede all prior oral negotiations, representations, and promises, which are merged into such writings. This Note, and any amendments, modifications or extensions to it, together with such other documents, constitutes the entire agreement between Borrower and Bank.
7. **Obligations of Borrower Under This Note:** If more than one person signs this Note, each person is fully, personally, jointly and severally obligated to perform all of the obligations of Borrower under this Note, including the promise to pay the full amount owed. Any person who assumes or otherwise takes over these obligations is also obligated jointly and severally to perform all of the obligations of Borrower under this Note. The Bank may enforce its rights under this Note against each such person individually or against all of such persons together. Borrower(s) jointly and severally waive presentment for payment, demand, notice of nonpayment, protest, and notice of protest, and diligence in enforcing payment of this Note.
- ☒ 8. **Amended and Restated Note:** If checked, this Note amends and restates that certain note dated July 24, 1981, in the original principal sum of Four Hundred Ninety-five Thousand and 00 cents-----
-----Dollars (\$ 495,000.00), made to the order of Bank or The Federal Land Bank of Spokane, whose successor by merger is Farm Credit Bank of Spokane, and any amendments thereto (the "Original Note"). This Note evidences the same debt evidenced by the Original Note. This Note and the Original Note both shall be cancelled upon full payment of the debt evidenced by this Note as provided herein. The Original Note is secured by Mortgage(s) or Deed(s) of Trust encumbering the real property described therein, reference to which Mortgage(s) or Deed(s) of Trust as so recorded is hereby made for the terms thereof, and the description of said property. Such Mortgage(s) or Deed(s) of Trust and any other Security Documents shall continue to secure the payment of this Note and are hereby amended and supplemented by this Note. On July 1, 1989, Borrower shall pay Bank all interest which had accrued on the Original Note and remained unpaid on the date of this Note. This payment shall not reduce any other amount due under this Note.

This Note and the Original Note are secured by: Mortgage recorded August 11, 1981 in Book M-81 of mortgages at page 14205, Records of Klamath County, Oregon.

Nelson E. Somers
Nelson E. Somers
Barbara A. Somers
Barbara A. Somers

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Mountain Title Co. the 27th day
of Jan. A.D., 19 89 at 2:39 o'clock P.M. and duly recorded in Vol. M89
of Mortgages on Page 1759

Evelyn Biehn County Clerk
By Pauline Mullensdale

FEE \$28.00