

TRUST DEED

Vol. m89 Page 5596

98728

THIS TRUST DEED, made this 1st day of April, 1989, between
O. C. WEBB-BOWEN and MARIE R. WEBB-BOWEN, husband and wife,

as Grantor, WILLIAM M. GANONG, as Trustee, and
GERTRUDE E. RIKER, formerly known as GERTRUDE E. PADDOCK,
as Beneficiary.

WITNESSETH:

Grantor irrevocably grants, bargains, sells and conveys to trustee in trust, with power of sale, the property in Klamath County, Oregon, described as:

All that portion of the NW¼ SW¼ of Section 20, Township 38 South, Range 9 East of the Willamette Meridian, in the County of Klamath, State of Oregon, lying North of the Southern Pacific Railway right of way described as follows: Beginning at the intersection of the North line of the Southern Pacific Railroad right of way and the West line of Biehn Street; thence Northerly 75 feet along the West line of Biehn Street; to the place of beginning; thence 200 feet Westerly parallel to the Southern Pacific Railway; thence Northerly 200 feet parallel to tangent of Biehn Street; thence Easterly parallel to the Southern Pacific Railway right of way to Biehn Street; thence Southerly along the line of Biehn Street to the place of beginning.

together with all and singular the tenements, hereditaments and appurtenances and all other rights thereunto belonging or in anywise now or hereafter appertaining, and the rents, issues and profits thereof and all fixtures now or hereafter attached to or used in connection with said real estate.

FOR THE PURPOSE OF SECURING PERFORMANCE of each agreement of grantor herein contained and payment of the sum of Forty Thousand and No/100ths (\$40,000.00)

.....Dollars, with interest thereon according to the terms of a promissory note of even date herewith, payable to beneficiary or order and made by grantor, the final payment of principal and interest hereof, if not sooner paid, to be due and payable, 19.....

The date of maturity of the debt secured by this instrument is the date, stated above, on which the final installment of said note becomes due and payable. In the event the within described property, or any part thereof, or any interest therein is sold, agreed to be sold, conveyed, assigned or alienated by the grantor without first having obtained the written consent or approval of the beneficiary, then, at the beneficiary's option, all obligations secured by this instrument, irrespective of the maturity dates expressed therein, or herein, shall become immediately due and payable.

The above described real property is not currently used for agricultural, timber or grazing purposes.

To protect the security of this trust deed, grantor agrees:

1. To protect, preserve and maintain said property in good condition and repair; not to remove or demolish any building or improvement thereon; not to commit or permit any waste of said property.

2. To complete or restore promptly and in good and workmanlike manner any building or improvement which may be constructed, damaged or destroyed thereon, and pay when due all costs incurred therefor.

5. To comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting said property; if the beneficiary so requests, to join in executing such financing statements pursuant to the Uniform Commercial Code as the beneficiary may require and to pay for filing same in the proper public office or offices, as well as the cost of all lien searches made by filing officers or searching agencies as may be deemed desirable by the beneficiary.

4. To provide and continuously maintain insurance on the buildings now or hereafter erected on the said premises against loss or damage by fire and such other hazards of the beneficiary may from time to time require, in an amount not less than full ins. value, written in

an amount not less than \$100,000, and the beneficiary, with less payable to the beneficiary, if the beneficiary is not a company acceptable to the grantor, shall be delivered to the beneficiary as soon as insured; and if the grantor shall fail for any reason to procure any such insurance and to deliver said policies to the beneficiary at least fifteen days prior to the expiration of any policy of insurance now or hereafter placed on said business, the beneficiary may, at any time, cause the entire amount so insured to be secured under any fire or other insurance policy may be applied by beneficiary upon any indebtedness secured hereby and in such order as beneficiary may determine, or at option of beneficiary the entire amount so collected, or any part thereof, may be released to the grantor. Such application or invalidation may be made by the beneficiary upon notice of default hereunder or otherwise, and no notice shall be required to the grantor.

not done pursuant to such notice. The grantor shall be free from construction liens and to pay all taxes, assessments and other charges that may be levied or assessed upon and against said property before any part of such taxes, assessments and other charges become past due or delinquent and promptly deliver receipts therefor to beneficiary; should the grantor fail to make payment of any taxes, assessments, insurance premiums, or other charges, the grantor, either alone or jointly with the beneficiary, shall be obligated to provide the beneficiary with funds with which to make such payment, beneficiary may, at its option, make payment thereof, and the amount so paid, with interest at the rate set forth in the note secured hereby, together with the obligations described in paragraphs 6 and 7 of this trust deed, shall be added to and become a part of the debt secured by this trust deed, and all such additions arising from breach of any of the covenants hereof and for such payments, with interest as aforesaid, the property hereinbefore described, as well as the grantor, shall be bound to the same extent that they are bound for the payment of the obligation hereinbefore described, and all such payments shall be immediately due and payable without notice, and the unpaid principal and interest thereon shall be payable out of the proceeds of the sale of the property by the option of the beneficiary. The obligations secured by this trust deed ended immediately due and payable and constitute a breach of this trust deed.

6. To pay all costs, fees and expenses of this trust including the costs of title search as well as the other costs and expenses of the trustee incurred in connection with or in enforcing this obligation and trustee's and attorney's fees actually incurred.

less actually incurred. The court shall not award costs to a party who has failed to protect or defend any action or proceeding purporting to affect the security rights or powers of beneficiary or trustee; and in any suit or action or proceeding in which the beneficiary or trustee may appear, including any suit for the foreclosure of the mortgage, the beneficiary or trustee shall be entitled to recover the beneficiary's or trustee's attorney's fees; the amount of attorney's fees mentioned in this paragraph 7 in all cases shall be fixed by the trial court and in the event of an appeal from any judgment or decree of the trial court, the appellate court shall have the authority to modify the decree of the trial court, grant or refuse a new trial, and shall have the authority to modify the award of attorney's fees. The appellate court shall not modify the award of attorney's fees on such appeal.

It is mutually agreed that:

It is further agreed that any portion of all of said property shall be taken under the right of eminent domain or condemnation, beneficiary shall have the right, if it so elects, to require that all or any portion of the monies payable as compensation for such taking, which are in excess of the amount required to pay all reasonable costs, expenses and attorney's fees necessary to effect such taking, be paid to beneficiary. The balance of such monies shall be paid to beneficiary and applied by it first upon any reasonable costs and expenses and attorney's fees both in the trial and appellate courts, necessarily paid or incurred by beneficiary in such proceedings, and the balance applied upon the indebtedness secured hereby; and grants, agreements, judgments, orders, decrees, awards, and execution of such instruments shall be necessary in obtaining such compensation, promptly upon beneficiary's request.

9. At any time and from time to time upon written request of beneficiary, payment of its fees and presentation of this deed and the note for endorsement (in case of full reconveyances, for cancellation), without affecting the liability of any person for the payment of the indebtedness, trustee may

(a) consent to the making of any map or plat of said property; (b) join in granting any conveyance or creating any restriction thereon; (c) join in any subordination or other instrument affecting this deed, the lien or charge thereon; (d) disavow, without warranty, all or any part of the property. The grantee in any reconveyance may be described as the "person or persons legally entitled thereto," and the recitals therein of any matters or facts shall be conclusive proof of the truthfulness thereof. Trustee's fees for any of the services mentioned in this paragraph shall be not less than \$5.

time without notice, either in person, by agent or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said property or any part thereof, in its own name sue or otherwise collect the rents, issues and profits, including those past due and unpaid, and apply the same, after payment of the expenses of operation and collection, including reasonable attorney's fees upon any indebtedness secured hereby, and in such order as beneficiary may determine.

11. The entering upon and taking possession of said property, the collection of such rents, issues and profits, or the proceeds of fire and other insurance policies or compensation or awards for any taking or damage of the property, and the application or release thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

12. Upon default by grantor if payment of any indebtedness secured hereby or in his performance of any agreement hereunder, the beneficiary may declare all sums secured hereby immediately due and payable. In such an event, the beneficiary shall have the right to foreclose this trust deed in equity as a mortgage or direct the trustee to foreclose this trust deed by advertisement and sale. In the latter event the beneficiary or the trustee shall have the right to sell the real property subject to this trust deed in order to sell the said described real property to satisfy the obligation secured hereby whereupon the trustee shall fix the time and place of sale, give notice of the sale to the grantor and the beneficiary, and to foreclose this trust deed in the manner provided in ORS §6.735 to §6.795.

13. After the trustee has commenced foreclosure by advertisement and sale, and at any time prior to 5 days before the date the trustee conducts the sale, the trustee may, at its option, cure the default by ORS 86.553, may cure the default or defaults. If the default consists of a failure to pay, when due, sums secured by the trust deed, the default may be cured by paying the entire amount due at the time of the cure other than such portion as would not then be due had no default occurred. Any other default that is capable of being cured may be cured by tendering the performance required under the obligation or trust deed. In any case, in addition to curing the default or defaults, the trustee may elect to hold any or all of the beneficiary's fees and expenses actually incurred in enforcing the obligation of the trust deed together with trustee's and attorney's fees not exceeding the amounts provided by law.

14. Otherwise, the sale shall be held on the date and at the time and place designated in the notice of sale or the time to which said sale may be postponed as provided by law. The trustee may sell said property either in one parcel or in separate parcels and shall sell the parcel or parcels at the highest price for cash that can be obtained. The trustee shall deliver to the purchaser its deed in form as required by law conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in the deed of any matters of fact shall be conclusive proof of the facts therein stated. The trustee, however, shall not be liable to the grantor or beneficiary, may purchase at the sale.

15. When Trustee sells pursuant to the powers provided herein, trustee shall apply the proceeds of sale to payment of (1) the expenses of sale, including the compensation of the trustee and a reasonable charge by trustee's attorney to the obligation secured by the trust, (2) to all persons having recorded liens subsequent to the interest of the trustee in the trust deed as their interests may appear in the order of their priority and (4) the surplus, if any, to the grantor or to his successor in interest entitled to such surplus.

16. Beneficiary may from time to time appoint a successor or successors to any trustee named herein or to any successor trustee appointed hereunder. Upon such appointment, and without conveyance to the successor trustee, the latter shall be vested with all title, powers and duties conferred upon any trustee herein named or appointed hereunder. Each such appointment and substitution shall be made by written instrument executed by beneficiary. The instrument so executed shall be subject to the provisions of the trust agreement, which the property is situated, shall be conclusive proof of proper appointment of the successor trustee.

17. Trustee accepts this trust when this deed, duly executed and acknowledged is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other deed of trust or of any action or proceeding in which grantor, beneficiary or trustee shall be a party unless such action or proceeding is brought by trustee.

NOTE: The Trust Deed Act provides that the trustee hereunder must be either an attorney, who is an active member of the Oregon State Bar, a bank, trust company or savings and loan association authorized to do business under the laws of Oregon or the United States, a title insurance company authorized to insure title to real property of this state, its subsidiaries, affiliates, agents or branches, the United States or any agency thereof, or an escrow agent licensed under ORS 676.505 to 676.555.

The grantor covenants and agrees to and with the beneficiary and those claiming under him, that he is lawfully seized in fee simple of said described real property and has a valid, unencumbered title thereto

and that he will warrant and forever defend the same against all persons whomsoever.

The grantor warrants that the proceeds of the loan represented by the above described note and this trust deed are:
(a) ~~for the personal, family or household use of the grantor or for the use of the grantor's personal, family or household~~
(b) for an organization, or (even if grantor is a natural person) are for business or commercial purposes.

This deed applies to, inures to the benefit of and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, personal representatives, successors and assigns. The term beneficiary shall mean the holder and owner, including pledgee, of the contract secured hereby, whether or not named as a beneficiary herein. In construing this deed and whenever the context so requires, the masculine gender includes the feminine and the neuter, and the singular number includes the plural.

IN WITNESS WHEREOF, said grantor has hereunto set his hand the day and year first above written.

* IMPORTANT NOTICE: Delete, by lining out, whichever warranty (a) or (b) is not applicable; if warranty (a) is applicable and the beneficiary is a creditor as such word is defined in the Truth-in-Lending Act and Regulation Z, the beneficiary MUST comply with the Act and Regulation by making required disclosures; for this purpose use Stevens-Ness Form No. 1319, or equivalent. If compliance with the Act is not required, disregard this notice.

(If the signer of the above is a corporation, use the form of acknowledgement opposite.)

STATE OF OREGON,

County of Klamath

} ss.

This instrument was acknowledged before me on April 1, 1989, by O. C.

WEBB-BOWEN and MARIE R. WEBB-BOWEN, husband and wife,

Notary Public for Oregon

My commission expires: 1-20-92

STATE OF OREGON,

County of

} ss.

This instrument was acknowledged before me on 19, by

as

of

Notary Public for Oregon

My commission expires:

(SEAL)

TRUST DEED

(FORM No. 881)
STEVENS-NESS LAW PUB. CO., PORTLAND, ORE.

O. C. WEBB-BOWEN

MARIE R. WEBB-BOWEN

Grantor

GERTRUDE E. RICKER,

Beneficiary

AFTER RECORDING RETURN TO

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

SPACE RESERVED
FOR
RECORDER'S USE

Fee \$13.00

STATE OF OREGON,

County of Klamath

} ss.

I certify that the within instrument was received for record on the 3rd day of April, 1989, at 4:15 o'clock P.M., and recorded in book/reel/volume No. M89 on page 5596 or as fee/file/instrument/microfilm/reception No. 98728. Record of Mortgages of said County. Witness my hand and seal of County affixed.

Evelyn Biehn, County Clerk

NAME

TITLE

By Pauline Mueller, Deputy