



As of 11/14/88, OREGON BANK  
Changed Its Name To  
SECURITY PACIFIC BANK OREGON

Vol. m89 Page 10646

# MORTGAGE

ASPEX 33381

AFTER RECORDING PLEASE RETURN TO: THE OREGON BANK CONSUMER LOAN CENTER BRANCH		MAILING ADDRESS & CITY: P.O. BOX 3615, PORTLAND	STATE OREGON	ZIP 97208
---	--	--	-----------------	--------------

DATE: JUNE 12, 19 89

As of 11/14/88, OREGON BANK  
Changed Its Name To  
SECURITY PACIFIC BANK OREGON

## NAMES AND ADDRESSES OF THE MORTGAGOR AND THE MORTGAGEE:

**STEPHEN MALLATT & REBECCA MALLATT,** (the "Mortgagor")  
**as tenants by the entirety**  
**P.O. BOX 454**  
**GILCHRIST, OR 97737**

**Oregon Bank** (the "Mortgagee")  
**CONSUMER LOAN CENTER**  
**P.O. BOX 3615**  
**PORTLAND, OREGON 97208**

The Mortgagor, in consideration of the sum of **\* THIRTY-FIVE THOUSAND SIX HUNDRED & NO/100 \* \***  
(**\$ 35,600.00**) DOLLARS, the receipt of which is acknowledged, and for the purpose of securing the repayment of such sum with interest, and the performance of the covenants hereinafter contained, does hereby grant, convey, mortgage and warrant unto the Mortgagee the following-described lands, premises and property situated in **KLAMATH** County, State of **Oregon**

SEE ATTACHED

To have and to hold the granted premises and property, together with the tenements, hereditaments, easements, rights, privileges, licenses and appurtenances, now or hereafter belonging to or used in connection with the above-described premises (the "Property"), including all buildings and improvements thereon, or that may hereafter be erected thereon, together with the reversions, remainders, rents, issues and profits thereof, together with the following Property which is and shall be deemed to be fixtures and a part of the Property: all plumbing, heating, cooking, cooling, ventilating, watering, irrigating apparatus, window shades, venetian blinds, screens and storm windows and doors, shutters and awnings, floor coverings, machinery or any other fixtures and replacements thereof now or hereafter during the term of this Mortgage belonging to or used in connection with the Property, all of which are a part of the security for the obligations herein mentioned.

In addition thereto, the following-described furniture, appliances and equipment or other fixtures and any replacements thereof, which are and shall be deemed to be fixtures and a part of the Property, are included as security for the indebtedness herein mentioned, as follows:

N/A

## The Mortgagor hereby covenants with the Mortgagee as follows:

1. **OBLIGATIONS SECURED.** This Mortgage is given to secure the above sum, said sum to be paid in accordance with the terms of the Instruments or agreements (the "Instruments") indicated by the box or boxes checked with an "X":

- a. ☒ A Promissory note or notes dated JUNE 12, 19 89, executed by STEPHEN MALLATT & REBECCA MALLATT to the order of the Mortgagee.
- b. ☐ A Loan and Security Agreement ☐ Accounts Receivable ☐ Accounts Receivable and Inventory dated 19, executed by \_\_\_\_\_ and the Mortgagee.
- c. ☐ A Line of Credit in the amount of \$ \_\_\_\_\_ for the benefit of \_\_\_\_\_
- d. ☐ A Continuing Guaranty dated \_\_\_\_\_, 19 \_\_\_\_\_, executed by \_\_\_\_\_, as Guarantor, relating to the indebtedness of \_\_\_\_\_, in favor of the Mortgagee.
- e. ☐ Other (describe): \_\_\_\_\_

The final maturity of the latest of the foregoing obligations is JUNE 15, 1989. The security of this Mortgage shall extend to and secure payment and performance of all obligations, liabilities and indebtedness, including, without limitation, principal, interest, (whether a fixed, indexed or adjusted rate), costs and attorneys' fees which are or may become due to the Mortgagee pursuant to the Instruments and pursuant to Section 14 of this Mortgage, all obligations to perform acts and to refrain from performing acts pursuant to the Instruments, all extensions, modifications and renewals of the Instruments, or the indebtedness, obligations or liabilities evidenced thereby, the payment and performance of the provisions of this Mortgage and all other existing and future obligations, liabilities and indebtedness of STEPHEN MALLATT & REBECCA MALLATT

to the Mortgagee, regardless of how the same may arise and whether arising by future advances or otherwise and regardless of whether the same are of the same kind or character as those indicated in the Instruments, and regardless of whether contemplated by Mortgagor and the Mortgagee at the time of this Mortgage, including primary, secondary, direct and contingent obligations. All such obligations, liabilities and indebtedness are referred to herein as the "Obligations".

2. **WARRANTY OF TITLE.** The Mortgagor warrants that the Mortgagor holds merchantable title to the Property in fee simple, free of all encumbrances or other prior interest whatsoever (collectively, the "Prior Interests") other than those Prior Interests specified in the following-described title insurance policy or title report issued by ASPEN TITLE & ESCROW INC. (name of title company), dated MAY 8, 1989, policy or report number 53381, issued for the benefit of the Mortgagee in connection with this transaction or in a separate schedule of Prior Interests executed by the Mortgagor in connection herewith. Subject to such exceptions, the Mortgagor warrants and will forever defend the title against the claims of all persons. In the event any action or proceeding is commenced which questions Mortgagor's title or the interest or priority of the Mortgagee under this Mortgage, Mortgagor shall defend the action or proceeding at Mortgagor's expense. The Mortgagor will do and perform all things required of them and pay all sums due or to become due under the terms of the Prior Interest or interests, as and when the same should be paid or performed. The Mortgagee is hereby irrevocably authorized and empowered, but without obligation to do so, to pay any sum which may become due or perform any action which may be required to be performed pursuant to the terms of any of the Prior Interests, and the sum so paid and the cost of the acts so performed shall be added to the Obligations specified in the Instruments and shall bear interest at the rate in effect on such Obligations and shall be payable on demand. The Mortgagee shall be the sole judge of the legality, validity and priority of any amount to be paid or act to be performed pursuant to the terms of any of the Prior Interests.
3. **SECURITY AGREEMENT.** This Mortgage shall constitute a security agreement with respect to any personal property or fixtures or both included within the description of the Property. At the request of the Mortgagee, the Mortgagor shall execute one or more financing statements pursuant to the Uniform Commercial Code in a form satisfactory to the Mortgagee and will pay for filing the same in the proper public office or offices as well as the cost of such lien searches made by filing officers or searching agencies as may be deemed desirable by the Mortgagee. A photographic or other reproduction of this Mortgage shall suffice as and may be used as a financing statement.
4. **INSURANCE.** During the entire life of this Mortgage, the buildings and improvements erected and to be erected on the Property, and the personal property mortgaged herein, if any, shall be kept insured by the Mortgagor against loss or damage by fire and such other hazards in such amounts, for such periods and under such form and type of policy as shall be satisfactory to the Mortgagee. All the insurance written on the Property shall be made payable, in the event of loss, to the Mortgagee and the Mortgagee shall be entitled to the possession of all such insurance policies during the life of this Mortgage. The cash value of all such insurance policies is hereby assigned to the Mortgagee as additional security for the Obligations and in the event of foreclosure of this Mortgage or other transfer of title to the Property in extinguishment of the Obligations, all right, title and interest of the Mortgagor in and to any such insurance policies then in force shall pass to the Mortgagee. The Mortgagor will pay the premium for such insurance as the same shall become due. The Mortgagee shall not be responsible for any failure to place or maintain such insurance or for loss or damage growing out of a defect or nonpayment of loss under any such policy of insurance.
- If the Property covered hereby or any part thereof shall be damaged by fire or other hazards against which insurance is held, the amounts paid by any insurance company pursuant to the policy or policies of insurance shall be paid to the Mortgagee and the amounts so received may be applied by the Mortgagee, at its option, either upon any of the Obligations, regardless of whether the same are due and without reducing the payment terms provided therein, or released by the Mortgagee, at its option, for the repairing, replacing and rebuilding of the Property, such repairing, replacing and rebuilding to be done and made subject to the approval of the Mortgagee and in a manner satisfactory to the Mortgagee. The Mortgagor shall promptly notify the Mortgagee of any loss or damage which may occur to the Property. The Mortgagee is hereby authorized, at Mortgagee's option, to make proof of loss if the same is not promptly made by the Mortgagor. The Mortgagee may compromise with any insurance company and make a final settlement which shall be binding upon the Mortgagor.
5. **TAXES AND OTHER CHARGES.** The Mortgagor will pay before delinquency, and before any penalties, interest or other charges accrue or are added thereto, any and all taxes, assessments, liens, charges for the use of water on the Property, and any other charges or assessments which may become liens thereon prior to the lien of this Mortgage, and will keep the Property free and clear of any and all liens for labor or material, or any lien whatsoever that may become prior or enjoy equal priority with this Mortgage. If any future law is passed taxing or assessing this Mortgage or the Mortgagee on account of its ownership of this Mortgage, then the Mortgagor shall pay the entire amount of such tax or taxes as the same may become due and payable from time to time. The assessor or tax collector of the county in which the Property is located is authorized to deliver to the Mortgagee a written statement of the Property taxes assessed or owing at any time.
6. **RESERVES FOR TAXES AND INSURANCE.** ☐ (Check if applicable) The Mortgagor shall pay to the Mortgagee, until the Obligations are fully paid and assessments next due on the Property, all as estimated by the Mortgagee and of which the Mortgagor is notified, less all sums already paid therefor, divided by the number of months to elapse before one month prior to the date when such premiums, taxes and assessments will become delinquent, such sums to be held by the Mortgagee to pay such premiums, taxes and assessments. Payment of such amounts shall be secured by this Mortgage.
7. **WASTE.** The Mortgagor will use the Property only for lawful purposes and will not commit or suffer strip or waste upon the Property and will not do or suffer to be done any act or thing which may in any way impair the security of this Mortgage. The Property and any and all improvements thereon shall at all times be kept in a sound state of preservation and in good repair. The character and usage of the Property shall not be changed and alterations in the Property or additions thereto shall not be made without the prior written consent of the Mortgagee. If the Property is to be used for farming, the Mortgagor will maintain and cultivate the Property in a good and husbandlike manner, using approved methods of preventing soil erosion thereon and of preserving the fertility of the cultivated portions thereof; will keep any orchards on the Property irrigated, cultivated, pruned, sprayed and cared for; will not remove or demolish or permit the removal or demolition of any building or buildings or fences or other improvements now or hereafter existing on the Property; will not cut or remove or permit the cutting or removal of timber from the Property, except for domestic use thereon; and will do all acts and things necessary to protect from pollution any and all surface waters, seepage waters, wells, springs and streams now or hereafter upon or used for irrigation or domestic purposes upon the Property.
8. **CONSTRUCTION.** Any structure being constructed on the Property, or to be constructed, shall be completed within N/A months from the date of this Mortgage. The Mortgagor will perform all of the terms and conditions to be performed by the Mortgagor pursuant to any commitment agreement or construction loan agreement executed in connection with this Mortgage. If any sums to be loaned or advanced by the Mortgagee in connection with this Mortgage are to be used for the purchase of the Property or for the construction of improvements upon the Property, the Mortgagor shall use such sums only for such purpose.
9. **MODIFICATION OF OBLIGATIONS.** Any of the Obligations may be extended or modified by the Mortgagee at any time for the payor or other obligor without notice to any other person, firm or corporation and without releasing the Mortgagor or any guarantor or other payor or obligor from liability hereunder or upon the Obligations and without impairing, altering or affecting the lien of this Mortgage in any way. Each of the covenants and agreements herein shall be binding upon all successors in interest of the Mortgagor and shall inure to the benefit of any successor in interest of the Mortgagee. If any of the Obligations are assigned and transferred by the Mortgagee to any one or more parties without the assignment of this Mortgage, then the Mortgagee shall hold this Mortgage in trust for the benefit of such assignee or assignees and may sue and recover upon such Obligations and foreclose this Mortgage in its own name for the benefit of such assignee or assignees to the same extent as though such Obligations had not been assigned. This Mortgage may only be modified by a writing in recordable form, signed on behalf of the Mortgagor and the Mortgagee.
10. **RENTS AND PROFITS.** All rents, issues, income and profits derived from the Property are hereby assigned to the Mortgagee as additional security. In the event of default of the Mortgagor in any respect under any of the Obligations, the Mortgagee shall have the right to collect and retain rents, issues, income and profits derived from the Property, and such rents, issues, income and profits shall be applied by the Mortgagee, at its option, in payment of operating costs and expenses in connection with the operation and management of the Property, in payment of its customary costs and charges for collection and management, and upon any of the Obligations. The Mortgagee shall have the right, at its option, to enter into and upon the Property and take possession thereof in the event of a default and to collect the rents, issues, income and profits and require any tenants or occupants of the Property to make payments to the Mortgagee of rental and of other charges arising out of the use and occupancy of the Property.
11. **CONDEMNATION.** If all or any part of the Property is condemned or otherwise subjected to proceedings in the nature of eminent domain, then, subject to the rights of the holder of any Prior Interest, the Mortgagee may, at its election, require that all or any portion of the net proceeds of the award be applied on the Obligations without reducing the payment terms provided therein. The term "net proceeds of the award" means the award after payment of all reasonable costs, expenses and attorneys' fees necessarily paid or incurred by the Mortgagor and the Mortgagee in connection with the condemnation. If any proceedings in condemnation are commenced, the Mortgagor shall promptly take such steps as may be necessary to defend the action and obtain the award. All offers, judgments, decrees and awards pursuant to proceedings for condemnation are hereby assigned in their entirety to the Mortgagee.
12. **RECEIVER.** In the event it becomes necessary in the judgment of the Mortgagee to do so, the Mortgagee, without notice and without regard to the value of the Property or to the adequacy of the security for the Obligations, shall have the right to apply to any court having jurisdiction for the appointment of a receiver and to have appointed a receiver to manage and control the Property. The Mortgagor hereby waives any bond or undertaking which might otherwise be required in connection with such appointment. In the event the Mortgagee or any receiver enters into possession of the Property, any personal property owned by the Mortgagor and remaining in or about the Property may be used without charge by the Mortgagee or receiver in the operation of the Property, or may be removed by the Mortgagee or receiver, and in no event shall the Mortgagee or receiver be held liable or responsible in any manner for injuries, loss, destruction or damage to such personal property.
13. **RIGHT OF ENTRY.** The Mortgagor hereby agrees and permits the Mortgagee to enter upon the Property with or without notice and to do anything thereon or thereto which the Mortgagee shall deem necessary or prudent to protect the Mortgagee's interests and rights described in this Mortgage.
14. **COSTS AND ATTORNEYS' FEES.** In the event suit or action is instituted to enforce any of the terms of this Mortgage, the Mortgagee shall be entitled to recover from the Mortgagor such sum as the court may adjudge reasonable as attorneys' fees at trial, on appeal or otherwise. All reasonable expenses incurred by the Mortgagee that are necessary at any time in the Mortgagee's opinion for the protection of its interest or the enforcement of its rights, including without limitation, the cost of searching records, obtaining title reports, surveyor's reports, attorneys' opinions or title insurance, regardless of whether any court proceeding is involved, shall become a part of the Obligations, payable on demand, and shall bear interest at the rate in effect from time to time on the specific Obligations described in the Instruments from the date of expenditure until repaid.

15. **EVENTS OF DEFAULT.** The following shall be Events of Default:
- Nonpayment or nonperformance of any of the terms or conditions of any of the Obligations when and as the same should be paid and performed; or
  - Breach of any covenant, warranty or agreement contained in this Mortgage or in any other agreement between the Mortgagor and the Mortgagee; or
  - If any of the Obligations are payable on demand, the occurrence of a demand for payment; or
  - Filing of a petition by or against the Mortgagor under the bankruptcy or like law; or
  - Receivership of the Mortgagor or an assignment for the benefit of the Mortgagor's creditors; or
  - Any financial statement submitted to the Mortgagee in connection with any of the Obligations proves false in any material respect; or
  - The Insolvency or cessation of the business of the Mortgagor; or
  - The rescission or attempted rescission or other attempt to limit any guaranty of any of the Obligations, regardless of whether successful.
- Upon the occurrence of any Event of Default, and without demand (except in the case of an Obligation which is payable on demand, in which case demand shall first be made) or notice of any kind, which are hereby expressly waived, the Mortgagee may declare the Obligations to be immediately due and payable, whereupon the Obligations shall be and become immediately due and payable, and the Mortgagee may foreclose this Mortgage and may exercise all other rights and remedies of the Mortgagee pursuant to applicable law. All rights and remedies shall be cumulative and may be exercised singularly, concurrently and from time to time.
16. **NON-WAIVER.** No delay or failure on the part of the Mortgagee in the exercise of any right or remedy shall operate as a waiver thereof and no single or partial exercise by the Mortgagee of any right or remedy shall preclude other or further exercise thereof or the exercise of any right or remedy. No amendment or waiver of any provision nor consent to any departure by Mortgagor therefrom shall in any event be in effect unless in writing and signed by Mortgagee; such written waiver or consent to be effective only in the specific instance and for the specific purpose for which given.
17. **LIMITATIONS OR TRANSFERS.** Neither the Property, nor any portion thereof, nor any interest therein shall be transferred unless the prior written consent of the Mortgagee has first been obtained, regardless of whether the transferee assumes or agrees to pay the Obligations. The term "transfer" shall include:
- If the Mortgagor is a corporation, partnership, joint venture or other form of organization, the transfer of a controlling interest in such organization; or
  - A transfer into trust, or if the Property is in trust, to another trust or out of trust, or a transfer by deed, contract of sale or by gift; or
  - A transfer by a transferee of the Mortgagor, or by any subsequent transferee, even if such transferee has not assumed this Mortgage.
- The term "transfer" shall not include a transfer by devise, or by operation of the laws of intestate succession or, if the Property is held by the entireties, or by other form of joint tenancy involving a right of survivorship, to a spouse or joint tenant by operation of the right of survivorship. As a condition to its consent to a transfer, the Mortgagee may require such information concerning the transferee as it would of a new loan applicant, and may impose a service charge and increase the interest rate on the Obligations.
18. **SUCCESSORS AND ASSIGNS.** All of the terms of this Mortgage shall apply to and bind the heirs, executors, administrators, successors and assigns of the Mortgagor and the Mortgagee.
19. **CAPTIONS AND GRAMMATICAL CONSIDERATIONS.** The captions contained in this Mortgage are for convenience of reference only and they shall not affect the meaning of any provision of this Mortgage. It is understood that the Mortgagor or the Mortgagee may be more than one person; that if necessary to conform to the intent of the parties, and if the context so requires, singular references shall include plural references, plural references shall include singular references, references to one gender shall include references to other genders, references to natural persons shall include references to organizations, references to organizations shall include references to natural persons, and all other necessary grammatical modifications shall be deemed to have been made.

X  
STEPHEN MALLATT

*Steph Mallatt*

X  
REBECCA MALLATT

*Rebecca S. Mallatt*

STATE OF OREGON

County of \_\_\_\_\_

)  
) SS.  
)

The foregoing Mortgage was acknowledged before me on \_\_\_\_\_, 19\_\_\_\_, by \_\_\_\_\_, (Corporate Officer(s)),  
of \_\_\_\_\_, (Corporate Title (s)),  
a corporation, on behalf of the corporation.

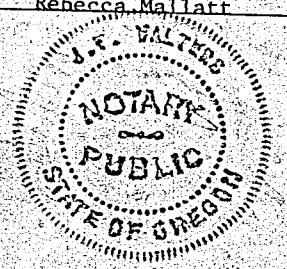
Notary Public for Oregon  
My Commission Expires: \_\_\_\_\_

STATE OF OREGON

County of Deschutes

)  
) SS.  
)

The foregoing Mortgage was acknowledged before me on June 12, 1989, by Stephen Mallatt and  
Rebecca Mallatt



Notary Public for Oregon  
My Commission Expires: 1-10-93

*[Signature]*



A parcel of land situated in the SW 1/4 Section 25, Township 24 South, Range 8 East of the Willamette Meridian, in the County of Klamath, State of Oregon, being more particularly described as follows:

Beginning at a 5/8 inch iron pin marking the Northeast corner SE 1/4 SW 1/4 of said Section 25; thence South 89 degrees 12' 47" West along the North line of said SE 1/4 SW 1/4 Section 25, a distance of 512.5 feet to a 5/8 inch iron pin this being the point of beginning; thence South 334.91 feet; thence South 62 degrees 49' West a distance of 296.02 feet; thence North 466.60 feet to a point on the North line of said SE 1/4 SW 1/4 Section 25; thence North 89 degrees 12' 47" East along the North line of said SE 1/4 SW 1/4 Section 25, 263 feet to the point of beginning.

EXCEPTING THEREFROM that portion of above described property lying within the boundaries of the Air Strip.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Aspen Title co. the 14th day of June A.D., 19 89 at 4:02 o'clock P.M., and duly recorded in Vol. M89 of Mortgages on Page 10646.

FEE \$23.00

Evelyn Biehn, County Clerk

By Douglas Mullendore

