

MTC 24848

SECOND MORTGAGE

THIS MORTGAGE, Made this 3rd day of April, 1991 by ROBERT W. CREED and KRISTINE CREED, husband and wife, hereinafter called Mortgagor, to O. JEFFERY LeROY and DEBRA C. LeROY, husband and wife, hereinafter called Mortgagee,

WITNESSETH, That said mortgagor, in consideration of ONE HUNDRED THIRTY-TWO THOUSAND DOLLARS (\$132,000.00), to him paid by said mortgagee, does hereby grant, bargain, sell and convey unto said mortgagee, his heirs, executors, administrators and assigns, that certain real property situated in Klamath County, State of Oregon, bounded and described as follows, to wit:

Lots 10, 11 and 12, Block 1, SIXTH STREET
ADDITION TO THE CITY OF KLAMATH FALLS,
OREGON, according to the official plat
thereof on file in the office of the
County Clerk of Klamath County, Oregon.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and which may hereafter thereto belong or appertain, and the rents, issues and profits therefrom, any and all fixtures upon said premises at the time of the execution of this mortgage or at any time during the term of this mortgage.

TO HAVE AND TO HOLD the said premises with the appurtenances unto the said mortgagee, his heirs, executors, administrators and assigns forever.

This mortgage is intended to secure the payment of a certain promissory note dated April 3, 1991, from Mortgagor in favor of Mortgagee, in the principal amount of One Hundred Thirty-two Thousand Dollars (\$132,000.00) with interest thereon at the rate of twelve percent (12%) per annum payable in monthly installments, beginning April 1, 1991, and continuing on the 1st of each month thereafter until April 1, 1996 when the remaining balance of principal and interest shall be due and payable in full.

The date of maturity of the debt secured by this mortgage is the date on which the last scheduled principal payment becomes due: April 1, 1996.

This mortgage is inferior, secondary and made subject to a prior trust deed on the above described real estate made by O. Jeffery LeRoy, to South Valley State Bank, dated July 3, 1989, and recorded in the mortgage records of the above named county in Book No. M-89, at page 11963 thereof, reference to said mortgage records hereby being made; the said trust deed was given to secure a note

for the principal sum of \$106,515.00 and no more; said prior trust deed and the obligations secured hereby hereinafter, for brevity, are called simply "first trust deed".

The mortgagor covenants to and with the mortgagee, his heirs, executors, administrators and assigns, that he is lawfully seized in fee simple of said premises; that the same are free from all encumbrances except said first trust deed and that he will warrant and forever defend the same against all persons; further, that he will do and perform all things required of him and pay all obligations due or to become due under the terms of said first trust deed as well as the note secured hereby, principal and interest, according to the terms thereof; but that payments made pursuant to this mortgage and the note it secures shall apply toward the first trust deed to the extent necessary to meet the terms of that obligation; and that payment of the note secured by this mortgage and said note shall constitute a full satisfaction of mortgagor's obligation with regard to the first trust deed; that while any part of the note secured hereby remains unpaid he will pay all taxes, assessments and other charges of every nature which maybe levied or assessed against said property, or this mortgage or the note secured hereby, when due and payable and before the same become delinquent; that he will promptly pay and satisfy any and all liens or encumbrances that are or may become liens on the premises or any part thereof superior to the lien of this mortgage; that he will keep the buildings now on or which hereafter maybe erected on the said premises continuously insured against loss or damage by fire or such other hazards as the mortgagee may from time to time require, in an amount not less than the full insurable value in a company or companies acceptable to the mortgagee herein, with loss payable, first to the holder of the said first trust deed, second, to the mortgagee named herein and then to the mortgagor as their respective interests may appear; all policies of insurance shall be delivered to the holder of the said first trust deed as soon as insured and a certificate of insurance executed by the company in which said insurance is written, showing the amount of said coverage shall be delivered to the mortgagee named in this instrument. Now if the mortgagor shall fail for any reason to procure any such insurance and to deliver said policies as aforesaid at least fifteen days prior to the expiration of any policy of insurance now or hereafter placed on said buildings, the mortgagee may procure the same in mortgagor's expense; that the mortgagor will keep the buildings and improvements on said premises in good repair and will not commit or suffer any waste of said premises. In the event any personal property is part of the security for this mortgage, then at the request of the mortgagee, the mortgagor shall join with the mortgagee in executing one or more financing statements pursuant to the Uniform Commercial Code, in 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 all liens searches made by filing officers of searching agencies as

may be deemed desirable by the mortgagee.

This mortgage is inferior, secondary and made subject to another prior trust deed in Lot 12 only made by O. Jeffrey LeRoy to South Valley State Bank dated July 14, 1989 and recorded in the mortgage records of the above named county in Book M-89 at page 13422 thereof, hereinafter referred to as "third trust deed". Mortgagee has the obligation to comply with all terms of said third trust deed and Mortgagor has no obligation with regard thereto other than as may be incidental to this second mortgage. Mortgagee's failure to comply with all terms of said third trust deed shall constitute a default of this second mortgage.

The mortgagor warrants that the proceeds of the loan represented by the above described note and this mortgage are for an organization, (even if mortgagor is a natural person) or for business or commercial purposes.

Now, therefore, if said mortgagor shall keep and perform the covenants herein contained and shall pay all obligations secured by said first trust deed as well as the note secured hereby according to its terms, this conveyance shall be void, but otherwise shall remain in full force as a mortgage to secure the performance of all of said covenants and the payments of the note secured hereby; it being agreed that a failure to perform any covenant herein or if a proceeding of any kind be taken to foreclose any lien on said premises or any part thereof, the mortgagee shall have the option to declare the whole amount unpaid on said note or on this mortgage at once due and payable, and this mortgage may be foreclosed at any time thereafter. And if the mortgagor shall fail to pay any taxes or charges or any lien, encumbrance or insurance premium as above provided for, or fail to do or perform anything required of him by said first trust deed, the mortgagee herein, at his option, shall have the right to make such payments and to do and perform the acts required by the grantor under said first mortgage, without waiver, however, of any right arising to the mortgage for breach of covenant. And this mortgage may be foreclosed for principal, interest and all sums paid by the mortgagee at any time while the mortgagor neglects to repay any sums so paid by the mortgagee. In the event any suit or action being instituted to foreclose this mortgage, the losing party agrees to pay all reasonable costs incurred by the prevailing party, all statutory costs and disbursements and such further sum as the trial court may adjudge reasonable as the prevailing party's attorney's fees in such suit or action, and if an appeal is taken from any judgment or decree entered therein, the losing party further promises to pay such sum as the appellate court shall adjudge reasonable as prevailing party's attorney's fees on such appeal, all such sums to be included in the court's decree.

Each and all of the covenants and agreements herein contained

shall apply to and bind the heirs, executors, administrators, assigns of said mortgagor and of said mortgagee respectively.

In case suit or action is commenced to foreclose this mortgage, the Court may, upon motion of the mortgagee, appoint a receiver to collect the rents and profits arising out of said premises during the pendency of such foreclosure, and apply the same, after first deducting all of said receiver's proper charges and expenses, to the payment of the amount due under this mortgage.

In construing this mortgage, it is understood that the mortgagor or mortgagee may be more than one person; that if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

IN WITNESS WHEREOF, said mortgagor has hereunto set his hand the day and year first written above written by authority of its Board of Directors.

Robert W. Creed
ROBERT W. CREED

Kristine Creed
KRISTINE CREED

STATE OF OREGON, County of Klamath) ss.

Personally appeared before me ROBERT W. CREED and KRISTINE CREED, and acknowledged the foregoing instrument to be their voluntary act and deed.

Kristine Creed
NOTARY PUBLIC FOR OREGON
My Commission Expires: 11/16/91

After recording return to: MOUNTAIN TITLE COMPANY
Escrow Collection #24848-K

Page -4-SECOND MORTGAGE

STATE OF OREGON, ss.
County of Klamath

Filed for record at request of:

Mountain Title Co.
on this 3rd day of April A.D., 19 91
at 4:06 o'clock P.M. and duly recorded
in Vol. M91 of Mortgages Page 6010
Evelyn Biehn County Clerk
By Carolyn Mullendore
Deputy.

Fee, \$23.00