

BOWERS EXCAVATING & FENCING, INC., AN OREGON CORPORATION

HMR, INC., AN OREGON CORPORATION

WITNESSETH:

SEE EXHIBIT "A" ATTACHED HERETO AND INCORPORATED
HEREIN BY THIS REFERENCE.

FOR THE PURPOSE OF SECURING PERFORMANCE of each agreement of grantor herein contained and payment of the sum of TWO HUNDRED NINETY-TWO (292) THOUSAND FIVE HUNDRED DOLLARS (\$292,500) ...

not sooner paid, to be due and payable _____ August 1, 1997.

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.

To protect the security of and maintain said property in good condition and to protect, preserve and maintain any building or improvement thereon; and repair; not to remove or demolish any building or improvement thereon; and 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 destroyed, damaged or destroyed thereon, and pay when due all costs incurred in the execution of the foregoing.

3. To comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting said property; if the beneficiary so requests, to join in executing said laws, ordinances, regulations, covenants, conditions and restrictions affecting said property pursuant to the Uniform Commercial Code and to execute and deliver all documents and instruments required for the public office or offices, as well as the cost of all liens, searches, made public, and to execute and deliver all documents and instruments required for the filing officers or searching agencies as may be deemed desirable by the beneficiary.

4. To cause to be maintained and continuously maintain insurance on the buildings

not cure or waive any default of notice or demand notices. To keep the premises free from construction liens and to pay all taxes, assessments and other charges that may be levied or assessed upon or against the property and any part of such taxes, assessments and other charges become past due or delinquent and promptly satisfy all receipts therefor to beneficiary, should the grantor fail to make such payments of any taxes, assessments, insurance premiums, liens or other charges payable by grantor, either by direct payment or by deducting beneficiary's contribution 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, shall be added to the obligations described in paragraph 1 of this trust deed, shall be added to and become a part of the obligations secured by this trust deed, without waiver of any rights of beneficiary as aresaid, the provisions hereof and for such payment, beneficiary, with interest as aresaid, the provisions herebefore described, shall be bound as the grantor shall be bound to the same extent that the grantor is bound for the payment of the obligation hereby described, and if such payments shall be immediately due and payable by the grantor and the nonpayment thereof shall, at the option of the beneficiary, render all sums secured by this trust deed immediately due and payable and constitute a breach of this trust deed. The expenses of this trust including the cost

in connection with the enforcement of the security rights of the beneficiary or trustee, and in any suit or proceeding in which the beneficiary or trustee may appear, including the costs and expenses, in any suit for the foreclosure of this deed, of the beneficiary or trustee, attorney's fees, including evidence of title and as mentioned in this paragraph 7, in all cases shall be borne by the beneficiary and in the event of an appeal in any judgment rendered by the trial court, grantor further agrees to pay such share of the appellate costs as the trial court, grantor further agrees to pay such share of the appellate costs as the trial court shall advise reasonable as the beneficiary or trustee's attorney's fees on such appeal.

It is mutually agreed that:

8. In the event that any portion or all of said property shall be taken under the right of eminent domain or condemnation, beneficiary shall have the right, at his option, to require that all or any portion of the money paid for such compensation for such taking, which are in excess of the amount necessarily paid to pay all reasonable costs, expenses and attorney's fees incurred by grantor in such proceedings, shall be paid to beneficiary and attorney's fees applied by it first upon any reasonable costs and expenses incurred by beneficiary in such proceedings, and the balance applied upon the indebtedness of beneficiary to grantor, and the balance applied upon the take such compensation, and grantor agrees, at its own expense, to execute such instruments as shall be necessary to carry out 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 (with 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

10. Upon any default by grantor hereunder, beneficiary may at any time without notice, either in person, by agent or by a secretary to be appointed by a court, and without need to take any proceedings of any security for the indebtedness hereunder, enter upon and take possession of said property and goods and chattels thereof, in its own name sue or otherwise collect the rents and profits and the proceeds of the sale of the property and goods and chattels, and sue and profit, including those past due and unpaid, and the interest thereon, less costs and expenses of operation and collection, including reasonable attorney's fees upon the indebtedness secured hereby, and in such order as beneficiary may deem proper.

12. Upon default by grantor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, time being of the essence with respect to such payment and/or performance, the beneficiary may demand that all sums secured hereby immediately due and payable by grantor to the beneficiary be paid to the beneficiary. In the event of such default, such demand by the beneficiary at his election may proceed to foreclose this trust deed in equity as a mortgage or direct the trustee to foreclose this trust deed by advertisement and sale, or may direct the trustee to pursue any other right or remedy, either at law or in equity, which the beneficiary may have. In the latter event the beneficiary or the trustee shall execute and cause to be recorded his written notice of default and his election to sell the said described real property to satisfy the obligation secured hereby whereupon the trustee shall proceed to satisfy the obligation secured hereby as then required by law and in the time and place of sale, give notice thereof as then required by law and to foreclose this trust deed in the manner provided in ORS 86.735 to 86.795.

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 in the notice of sale. The trustee may sell said property either in parcels or in separate parcels and shall sell the parcel or parcels of said property to the highest bidder for cash, and the form of sale of the Trustee at auction to the highest bidder for cash, and the form as required by law conveying said deliver to the purchaser of said property shall be in the form of a deed, but without any covenant or warranty, express or implied, of the truthfulness thereof. Any person who bids at the trustee, but including the trustee himself, shall be deemed to have purchased at the sale of the property.

15. When trustor sells pursuant to the powers provided herein, trustee shall apply the proceeds of sale to payment of (1) the expenses of sale, (2) the compensation of the trustee and a reasonable fee to the trustee's attorney, (3) to the obligation secured by the trust, (4) to all persons having recorded liens subsequent to the date of the recording of the trust, having recorded liens subsequent to the date of the recording of the trust, and (5) to the interest of the trustee in the trust, in the order of their priority and (4) the balance of the proceeds to the grantor or to his successor in interest entitled to such proceeds.

16. Beneficiary may from time to time appoint a successor or successors to any trustee named herein and to any successor trustee appointed hereunder. Upon such appointment and without conveyance to the successor trustee, the trustee herein named or appointed hereunder, each of the said trustee, the trustee herein named or appointed hereunder, each of the said trustee, and substitution shall be made by written instrument executed by beneficiary, which, when recorded in the mortgage records of the county or counties in 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 or of any action or proceeding in which grantor is brought by trustee.

NOTE: The Trust Deed Act provides that the trustee hereunder must be either an individual or a corporation organized under the laws of the State 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 696.505 to 696.585.

Upon recording return to: Mountain Title Company #33119
222 S. Sixth St., Klamath Falls, OR 97601

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) ~~primarily for grantor's personal, family or household purposes (see Important Notice below).~~
(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 _____

This instrument was acknowledged before me on _____, 19____, by _____

Notary Public for Oregon

(SEAL)

My commission expires: _____

STATE OF OREGON.

County of Klamath

This instrument was acknowledged before me on November 9, 1994, by John T. Bowers

President
of Bowers Excavating & Fencing, Inc.

Notary Public for Oregon

My commission expires: 11/16/95

(SEAL)

REQUEST FOR FULL RECONVEYANCE

To be used only when obligations have been paid.

TO: _____ Trustee

The undersigned is the legal owner and holder of all indebtedness secured by the foregoing trust deed. All sums secured by said trust deed have been fully paid and satisfied. You hereby are directed, on payment to you of any sums owing to you under the terms of said trust deed or pursuant to statute, to cancel all evidences of indebtedness secured by said trust deed (which are delivered to you herewith together with said trust deed) and to reconvey, without warranty, to the parties designated by the terms of said trust deed the estate now held by you under the same. Mail reconveyance and documents to _____

DATED: _____, 19____

Beneficiary

Do not lose or destroy this Trust Deed OR THE NOTE which it secures. Both must be delivered to the trustee for cancellation before reconveyance will be made.

TRUST DEED

(FORM No. 881)

STEVENS-NESS LAW PUB. CO., PORTLAND, ORE.

BOWERS EXCAVATING &
FENCING, INC.

Grantor

HMR, INC.

Beneficiary

AFTER RECORDING RETURN TO
Mountain Title Company
222 South Sixth Street
Klamath Falls OR 97601

STATE OF OREGON,

County of _____

I certify that the within instrument was received for record on the _____ day of _____, 19____, at _____ o'clock _____ M., and recorded in book/reel/volume No. _____ on page _____ or as fee/file/instrument/microfilm/reception No. _____, Record of Mortgages of said County.

Witness my hand and seal of County affixed.

NAME

TITLE

By _____

Deputy

PARCEL 1

The Westerly half of the following described parcel, situate in Klamath County, Oregon:

Beginning at the Southwest corner of premises described in Deed from H. M. Mallory and Christine Mallory, husband and wife, to Fremont Glass & Millwork Co., recorded April 14, 1969 in Volume M69, page 2675. Microfilm Records of Klamath County, Oregon; thence South along the East line of Washburn Way 40 feet to the true point of beginning; thence continuing South along the East line of Washburn Way 200 feet to a point; thence East parallel to the South line of said Fremont Glass & Millwork Co. tract to a point on the East line of Lot 3, Block 4, THIRD ADDITION TO ALTAMONT ACRES, which point is South 94.55 feet from the Northeast corner of said Lot 3; thence North along the East line of Lot 2, Block 4, to a point which is 40 feet South of the Northeast corner of Lot 2, Block 4, of said subdivision; thence West parallel to the South line of said Fremont Glass & Millwork Co. tract to the true point of beginning.

PARCEL 2

Parcel 3 of Land Partition 10-92, being a portion of Lot 71, FAIR ACRES SUBDIVISION NO. 1, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon, being in the NE1/4 of the SE1/4 of Section 35, Township 38 South, Range 9 East of the Willamette Meridian Klamath County, Oregon.

PARCEL 3

The West 790 feet of Tract 70, FAIR ACRES SUBDIVISION NO. 1, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

EXHIBIT "A"

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Mountain Title Co
 of Nov A.D., 19 94 at 3:03 o'clock P.M., and duly recorded in Vol. M94
 of Mortgages on Page 36376
 FEE \$20.00
 Evelyn Biehn - County Clerk
 By Christine M. Mendenhall