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RECORDATION REQUESTED BY: Vol. 1998 Page 5251

## WHEN RECORDED MAIL TO:

FIRST AMERICAN TITLE INSURANCE COMPANY

422 MAIN STREET

KLAMATH FALLS, OREGON 97601

## SEND TAX NOTICES TO:

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE ONLY

## TRUST DEED

THIS TRUST DEED IS DATED the last date set opposite the signatures of the Grantor among GENEVA DRINKWATER, Trustee of the Geneva A. Drinkwater Revocable Trust uda 10/18/93 (Grantor), AMBROSE W. McAULIFFE and SUSAN J. McAULIFFE, tenants in common, (Lender and sometimes Beneficiary); and FIRST AMERICAN TITLE INSURANCE COMPANY OF OREGON (Trustee).

**CONVEYANCE AND GRANT.** For valuable consideration, Grantor conveys to Trustee for the benefit of Lender as Beneficiary all of Grantor's right, title, and interest in and to the following described Real Property, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; all easements, rights of way, and appurtenances; all water, water rights and ditch rights (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the Real Property, including without limitation all minerals, oil, gas, geothermal and similar matters, located in Klamath County, State of Oregon (Real Property) more particularly described as follows:

Township 33 South, Range 7½ East of Willamette Meridian:

Section 22, Township 33 South, Range 7½ East of the Willamette Meridian.

Beginning at the intersection of the northeast corner of Lot 2 Block 11 Hessig Addition to Fort Klamath and the west bank of the Wood River; thence west 157.9 feet, more or less, to the northwest corner of said lot; thence continuing west 50 feet to the west boundary of the alley as described in Klamath County Oregon Commissioner's Journal, Volume VII, page 620; thence north 55 feet to the south boundary of Sixth Street; thence west 150 feet along the south boundary of Sixth Street to a point; thence south 110 feet to the southeast corner of Lot 1, Block 12 of said Hessig Addition; thence west 390 feet to the southwest corner of Lot 2 Block 13 of said Hessig Addition; thence north 110 feet to the northwest corner of said Lot 2; thence west along the south boundary of Sixth Street 420 feet to the easterly right of way of the Fort Klamath Wood River Highway; thence south 748 feet to a point lying 30 feet east of the ¼ corner of said Section 22; thence east 1290 feet to a point; thence north 308 feet, more or less, to the south and right bank of the Wood River; thence northerly (upstream) along the right bank of Wood River to the point of beginning.

Assessor Numbers: R-3307-V22BC-700; R-3307-V22BC-3200; R-3307-V22BC-3300; R-3307-V22BC-3400

## SUBJECT TO:

1. 1997-98 Klamath County Real Property Taxes, now a lien but not yet payable.

2. Terms and conditions of special assessment as farm use and the right of Klamath County, Oregon to additional taxes, plus interest, in the event said use should be changed which obligation Grantor agrees to pay and perform.
3. The rights of the public in and to that portion of the premises herein described lying within the limits of roads, streets or highways.
4. Any adverse claim based upon the assertion that some portion of said land has been removed from or brought within the boundaries thereof by an avulsive movement of the Wood River or has been formed by the process of accretion or reliction or has been created by artificial means or has accreted to such portion so created.
5. Easements and rights of way of record and apparent thereon.

**DEFINITIONS.** The following words shall have the following meanings when used in this Trust Deed.

**Beneficiary and Lender.** The word "Beneficiary" and "Lender" mean AMBROSE W. McAULIFFE and SUSAN J. McAULIFFE, tenants in common, their heirs, successors and assigns.

**Dollar Amounts.** All references to dollar amounts shall mean amounts in lawful money of the United States of America.

**Trust Deed.** The words "Trust Deed" mean this Trust Deed among Grantor, Lender, and Trustee.

**Grantor.** The word "Grantor" means GENEVA DRINKWATER, Trustee of the Geneva A. Drinkwater Revocable Trust uda 10/18/93.

**Improvements.** The word "Improvements" means and includes without limitation all existing and future improvements, buildings, structures (irrigation or otherwise), affixed on the Real Property, including, without limitation, facilities, additions, replacements and other construction on the Real Property.

**Indebtedness.** The word "Indebtedness" means all principal and interest payable under the Note and any amounts expended or advanced by Lender to discharge obligations of Grantor or expenses incurred by Trustee or Lender to enforce obligations of Grantor under this Trust Deed, together with interest on such amounts as provided in this Trust Deed.

**Note.** The word "Note" means that certain promissory note in the face amount of \$150,000.00, plus 6.8% per annum simple interest on declining balances payable interest only for a term of 15 years in monthly installments of not less than \$1,428.81 and a full balance of principal and accrued interest on November 1, 2013, expressly stating it is secured by this Trust Deed.

**Real Property.** The words "Real Property" mean the Real Property, interests and rights described above in the "Conveyance and Grant" section.

**Related Documents.** The words "Related Documents" mean and include without limitation all promissory notes, mortgages, deeds of trust, and all other instruments, Agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness, including, without limiting the generality of the foregoing, all documents and/or instruments evidentiary or implemental; of or ancillary to this Agreement.

**Rents.** The word "Rents" means all present and future rents, revenues, income, issues, royalties, profits, and other benefits derived from the Real Property.

**Trustee.** The word "Trustee" means FIRST AMERICAN TITLE INSURANCE COMPANY OF OREGON, 422 Main Street, Klamath Falls, Oregon 97601, and any substitute or successor trustees.

**Other Terms.** Terms not otherwise defined in this Agreement shall have the meanings attributed to such terms in ORS Chapter 86.

**THIS TRUST DEED, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS AND PERSONAL REAL PROPERTY, IS GIVEN TO SECURE (1) PAYMENT OF THE INDEBTEDNESS AND (2) PERFORMANCE OF ANY AND ALL OBLIGATIONS OF GRANTOR UNDER THE NOTE, THE RELATED DOCUMENTS, AND THIS TRUST DEED. THIS TRUST DEED IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:**

**PAYMENT AND PERFORMANCE.** Except as otherwise provided in this Trust Deed, Grantor shall pay to Lender all amounts secured by this Trust Deed as they become due, and shall strictly and in a timely manner perform all of Grantor's obligations under the Note, this Trust Deed, and the Related Documents. Grantor agrees that Grantor's possession and use of the Real Property shall be governed by the following provisions:

**Possession and Use.** Grantor may (a) remain in possession and control of the Real Property, (b) use, operate or manage the Real Property, and (c) collect any Rents from the Real Property. The following provisions relate to the use of the Real Property or to other limitations on the Real Property. THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

**Duty to Maintain.** Grantor shall maintain the Real Property in tenable condition and promptly perform all repairs, replacements, and maintenance necessary to preserve its value.

**Hazardous Substances.** Grantor shall not, during the period of Grantor's ownership of the Real Property, generate, manufacture, store, treat, dispose, release, or threat release, of any hazardous waste or substance in or about any of the properties.

**Nuisance, Waste.** Grantor shall not cause, conduct or permit any nuisance nor commit, permit, or suffer any stripping of or waste on or to the Real Property or any portion of the Real Property. Without limiting the generality of the foregoing, Grantor will not remove, or grant to any other party the right to remove, any timber, minerals (including oil and gas), soil, gravel or rock products without the prior written consent of Lender.

**Removal of Improvements.** Grantor shall not demolish or remove any Improvements from the Real Property without the prior written consent of Lender. As a condition to the removal of any Improvements, Lender may require Grantor to make arrangements satisfactory to Lender to replace such Improvements with Improvements of at least equal value.

**Lender's Right to Enter.** Lender and its agents and representatives may enter upon the Real Property at all reasonable times to attend to Lender's interests and to inspect the Property for purposes of Grantor's compliance with the terms and conditions of this Trust Deed.

**Compliance with Governmental Requirements.** Grantor shall promptly comply with all laws, ordinances, and regulations, now or hereafter in effect, of all governmental authorities applicable to the use or occupancy of the Real Property. Grantor may contest in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Grantor has notified Lender in writing prior to doing so and so long as, in Lender's sole opinion, Lender's interests in the Real Property are not jeopardized. Lender may require Grantor to post adequate security or a surety bond, reasonably satisfactory to Lender, to protect Lender's interest.

**Duty to Protect.** Grantor agrees neither to abandon nor leave unattended the Real Property, Grantor shall do all other acts, in addition to those acts set forth above in this section, which from the character and use of the Real Property are reasonably necessary to protect and preserve the Real Property.

**DUE ON SALE - CONSENT BY LENDER.** Lender may, at its option, declare immediately due and payable all sums secured by this Trust Deed upon the sale or transfer, without the Lender's prior written consent, of all or any part of the Real Property, or any interest in the Real Property. A "sale or transfer" means the conveyance of real property or any right, title or interest therein; whether legal, beneficial or equitable; whether voluntary or involuntary, whether by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than three (3) years, lease-option contract, mortgage, assignment, pledge, security interest in or any encumbrance of any kind or nature including, without limiting the generality of the term "sale or transfer," any lien by a third party. A conveyance of the Real Property to a revocable trust shall not constitute a "sale or transfer" within the meaning of this provision.

**TAXES AND LIENS.** The following provisions relating to the taxes and liens on the Real Property are a part of this Trust Deed.

**Payment.** Grantor shall pay when due (and in all events prior to delinquency) all taxes, special taxes, assessments, charges (including domestic water and sewer and irrigation water), fines and impositions levied against or on account of the Real Property, and shall pay when due all claims for work done on or for services rendered or material furnished to the Real Property. Grantor shall maintain the Real Property free of all liens having priority over or equal to the interest of Lender under this Trust Deed, except for the lien of taxes and assessments not due and except as otherwise provided in this Trust Deed.

**Right To Contest.** Grantor may withhold payment of any tax, assessment, or claim in connection with a good faith dispute over the obligation to pay, so long as Lender's interest in the Real Property is not jeopardized. If a lien arises or is filed as a result of nonpayment, Grantor shall within fifteen (15) days after the lien arises or, if a lien is filed, within fifteen (15) days after Grantor has notice of the filing, secure the discharge of the lien, or if requested by Lender, deposit with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender in an amount sufficient to discharge the lien plus any costs and attorneys' fees or other charges that could accrue as a result of a foreclosure or sale under the lien. In any contest, Grantor shall defend itself and Lender and shall satisfy any adverse judgment before enforcement against the Real Property. Grantor shall name Lender as an additional obligee under any surety bond furnished in the contest proceedings.

**Evidence of Payment.** Grantor shall upon demand furnish to Lender satisfactory evidence of payment of the taxes or assessments and shall authorize the appropriate governmental official to deliver to Lender at any time a written statement of the taxes and assessments against the Real Property.

**Notice of Construction.** Grantor shall notify Lender at least fifteen (15) days before any work is commenced, any services are furnished, or any materials are supplied to the Real Property, if any mechanic's lien, materialmen's lien, or other lien could be asserted on account of the work, services, or materials. Grantor will upon request of Lender furnish to Lender advance assurances satisfactory to Lender that Grantor can and will pay the cost of such improvements.

**REAL PROPERTY DAMAGE INSURANCE.** The following provisions relating to insuring the Real Property are a part of this Trust Deed.

**Maintenance of Insurance.** Grantor shall procure and maintain policies of fire insurance with standard extended coverage endorsements on a replacement basis for the full insurable value covering all Improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgagee clause in favor of Lender. Grantor shall also procure and maintain comprehensive general liability insurance in such coverage amounts as Lender may request with Trustee and Lender being named as additional insureds in such liability insurance policies. Policies shall be written in form, amounts, coverages and basis reasonably acceptable to Lender and issued by a company or companies reasonably acceptable to Lender. Grantor, upon request of Lender, will deliver to Lender from time to time the policies or certificates of insurance in form satisfactory to

Lender, including stipulations that coverages will not be cancelled or diminished without at least ten (10) days' prior written notice to Lender. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Grantor or any other person. Should the Real Property at any time become located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area, Grantor agrees to obtain and maintain Federal Flood Insurance for the full unpaid principal balance of the loan, up to the maximum policy limits set under the National Flood Insurance Program, or as otherwise required by Lender, and to maintain such insurance for the term of the loan.

**Application of Proceeds.** Grantor shall promptly notify Lender of any loss or damage to the Real Property. Lender may make proof of loss if Grantor fails to do so within fifteen (15) days of the casualty. Whether or not Lender's security is impaired, Lender may, at its election, receive and retain the proceeds of any insurance and apply the proceeds to the reduction of the indebtedness, payment of any lien affecting the Real Property, or the restoration and repair of the Real Property. If Lender elects to apply the proceeds to restoration and repair, Grantor shall repair or replace the damaged or destroyed Improvements in a manner satisfactory to Lender. Lender shall, upon satisfactory proof of such expenditure, pay or reimburse Grantor from the proceeds for the reasonable cost of repair or restoration if Grantor is not in default under this Trust Deed. Any proceeds which have not been disbursed within 180 days after their receipt, and which Lender has not committed to the repair or restoration of the Real Property shall be used first to pay any amount owing to Lender under this Trust Deed, then to pay accrued interest, and the remainder, if any, shall be applied to the principal balance of the Indebtedness. If Lender holds any proceeds after payment in full of the Indebtedness, such proceeds shall be paid to Grantor as Grantor's interests may appear.

**Unexpired Insurance at Sale.** Any unexpired insurance shall inure to the benefit of, and pass to, the purchaser of the Real Property covered by this Trust Deed at any trustee's sale or other sale held under the provisions of this Trust Deed, or at any foreclosure sale of such Real Property.

**Grantor's Report on Insurance.** Upon request of Lender, however not more than once a year, Grantor shall furnish to Lender a report on each existing policy of insurance showing: (a) the name of the insurer; (b) the risks insured; (c) the amount of the policy; (d) the Real Property insured, the then current replacement value of such Real Property, and the manner of determining that value; and (e) the expiration date of the policy.

**EXPENDITURES BY LENDER.** If Grantor fails to comply with any provision of this Trust Deed, or if any action or proceeding is commenced that would materially affect Lender's interests in the Real Property, Lender on Grantor's behalf may, but shall not be required to, take any action that Lender deems appropriate. Any amount that Lender expends in so doing will bear interest at the rate of 9% per annum from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenses, at Lender's option, will (a) be payable on demand or (b) be added to the balance of the Note and be treated as part of the unpaid principal due and payable at the Note's maturity. This Trust Deed also will secure payment of these amounts. The rights provided for in this paragraph shall be in addition to any other rights or any remedies to which Lender may be entitled on account of the default. Any such action by Lender shall not be construed as curing the default so as to bar Lender from any remedy that it otherwise would have had.

**WARRANTY; DEFENSE OF TITLE.** The following provisions relating to ownership of the Real Property are a part of this Trust Deed.

**Title.** Grantor warrants that: (a) Grantor holds good and marketable title of record to the Real Property in fee simple, free and clear of all liens and encumbrances other than those set forth in the Real Property description or in any title insurance policy, title report, or final title opinion issued in favor of, and accepted by, Lender in connection with this Trust Deed, and (b) Grantor has the full right, power, and authority to execute and deliver this Trust Deed to Lender.

**Defense of Title.** Subject to the exception in the paragraph above, Grantor warrants and will forever defend the title to the Property against the lawful claims of all persons. In the event any action or proceeding is commenced by or for the benefit of any person claiming title or the interest of Trustee or Lender under this Trust Deed, Grantor shall defend the action at Grantor's expense. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to



to participate in the proceeding and to be represented in the proceeding by counsel of Lender's own choice, and Grantor will deliver, or cause to be delivered, to Lender such instruments as Lender may request from time to time to permit such participation. Lender shall not be bound by any action taken by Grantor in connection with the proceeding. Grantor warrants that the Real Property and Grantor's use of the Real Property complies with all existing applicable laws, ordinances, and regulations of governmental authorities.

**CONDEMNATION.** The following provisions relating to condemnation proceedings are a part of this Trust Deed.

**Application of Net Proceeds.** If all or any part of the Real Property is condemned by eminent domain proceedings and by any proceeding or purchase in lieu of condemnation, Lender may at its election require that all or any portion of the net proceeds of the award be applied to the Indebtedness or the repair or restoration of the Real Property. The net proceeds of the award shall mean the award after payment of all reasonable costs, expenses, and attorneys' fees incurred by Trustee or Lender in connection with the condemnation.

**Proceedings.** If any proceeding in condemnation is filed, Grantor shall promptly notify Lender in writing, and Grantor shall promptly take such steps as may be necessary to defend the action and obtain the award. Grantor shall be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of its own choice, and Grantor will deliver or cause to be delivered to Lender such instruments as may be requested by it from time to time to permit such participation.

**IMPOSITION OF TAXES, FEES AND CHARGES BY GOVERNMENTAL AUTHORITIES.** The following provisions relating to governmental taxes, fees and charges are a part of this Trust Deed:

**Current Taxes, Fees and Charges.** Upon request by Lender, Grantor shall execute such documents in addition to this Trust Deed and take whatever other action is requested by Lender to perfect and continue Lender's lien on the Real Property. Grantor shall reimburse Lender for all taxes, as described below, together with all expenses incurred in recording, perfecting or continuing this Trust Deed, including without limitation all taxes, fees, and other charges for recording or registering this Trust Deed.

**Taxes.** The following shall constitute taxes to which this section applies: (a) a specific tax upon this type of Trust Deed or upon all or any part of the Indebtedness secured by this Trust Deed; (b) a specific tax on Grantor which Grantor is authorized or required to deduct from payments on the Indebtedness secured by this type of Trust Deed; (c) a tax on this type of Trust Deed chargeable against the Lender or the holder of the Note; and (d) a specific tax on all or any portion of the Indebtedness or on payments of principal and interest made by Grantor.

**Subsequent Taxes.** If any tax to which this section applies is enacted subsequent to the date of this Trust Deed, this event shall have the same effect as an Event of Default (as defined below), and Lender may exercise any or all of its available remedies for an Event of Default as provided below unless Grantor either (a) pays the tax before it becomes delinquent, or (b) contests the tax as provided above in the Taxes and Liens section and deposits with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender.

**SECURITY AGREEMENT; FINANCING STATEMENTS.** The following provisions relating to this Trust Deed as a security agreement are a part of this Trust Deed.

**Security Agreement.** This instrument shall constitute a security agreement to the extent any of the Real Property constitutes fixtures or other personal Real Property, and Lender shall have all of the rights of a secured party under the Uniform Commercial Code as amended from time to time.

**Security Interest.** Upon request by Lender, Grantor shall execute financing statements and take whatever other action is requested by Lender to perfect and continue Lender's security interest in the Rents and Personal Real Property. In addition to recording this Trust Deed in the Real Property records, Lender may, at any time and without further authorization from Grantor, file executed counterparts, copies or reproductions of this Trust Deed as a financing statement. Grantor shall reimburse Lender for all expenses incurred in perfecting or continuing this

security interest. Upon default, Grantor shall assemble the Personal Real Property in a manner and at a place reasonably convenient to Grantor and Lender and make it available to Lender within three (3) days after receipt of written demand from Lender.

**Addresses.** The mailing addresses of Grantor (debtor) and Lender (secured party), from which information concerning the security interest granted by this Trust Deed may be obtained (each as required by the Uniform Commercial Code), are as stated on the signatory page of this Trust Deed.

**FURTHER ASSURANCES; ATTORNEY-IN-FACT.** The following provisions relating to further assurances and attorney-in-fact are a part of this Trust Deed.

**Further Assurances.** At any time, and from time to time, upon request of Lender, Grantor will make, execute and deliver, or will cause to be made, executed or delivered, to Lender or to Lender's designee, and when requested by Lender, cause to be filed, recorded, refiled, or rerecorded, as the case may be, at such times and in such offices and places as Lender may deem appropriate, any and all such mortgages, deeds of trust, security deeds, security agreements, financing statements, continuation statements, instruments of further assurance, certificates, and other documents as may, in the sole opinion of Lender, be necessary or desirable in order to effectuate, complete, perfect, continue, or preserve (a) the obligations of Grantor under the Note, this Trust Deed, and the Related Documents, and (b) the liens and security interests created by this Trust Deed as first and prior liens on the Real Property, whether now owned or hereafter acquired by Grantor. Unless prohibited by law or agreed to the contrary by Lender in writing, Grantor shall reimburse Lender for all costs and expenses incurred in connection with the matters referred to in this paragraph.

**Attorney-in-Fact.** If Grantor fails to do any of the things referred to in the preceding paragraph, Lender may do so for and in the name of Grantor and at Grantor's expense. For such purposes, Grantor hereby irrevocably appoints Lender as Grantor's attorney-in-fact for the purpose of making, executing, delivering, filing, recording, and doing all other things as may be necessary or desirable, in Lender's sole opinion, to accomplish the matters referred to in the preceding paragraph.

**FULL PERFORMANCE.** If Grantor pays all the Indebtedness when due, and otherwise performs all the obligations imposed upon Grantor under this Trust Deed, Lender shall execute and deliver to Trustee a request for full reconveyance and shall execute and deliver to Grantor suitable statements of termination of any financing statement on file evidencing Lender's security interest in the Rents and the Personal Real Property. Any reconveyance fee required by law shall be paid by Grantor, if permitted by applicable law.

**DEFAULT.** Each of the following, at the option of Lender, shall constitute an event of default ("Event of Default") under this Deed of Trust:

**Default on Indebtedness.** Failure of Grantor to make any payment when due on the Indebtedness.

**Default on Other Payments.** Failure of Grantor within the time required by this Trust Deed to make any payment for taxes or insurance, or any other payment necessary to prevent filing of or to effect discharge of any lien.

**Default In Favor of Third Parties.** Should Borrower or any Grantor default under any loan, extension of credit, security agreement, purchase or sales agreement, or any other agreement, in favor of any other creditor or person that may materially affect any of Borrower's Real Property or Borrower's or any Grantor's ability to repay the Loans or perform their respective obligations under this Trust Deed or any of the Related Documents.

**Compliance Default.** Failure of Grantor to comply with any other term, obligation, covenant or condition contained in this Trust Deed, the Note or in any of the Related Documents.

**Insolvency.** The insolvency of Grantor, the appointment of a receiver for any part of the Real Property, any assignment for the benefit of creditors, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantor.

**Foreclosure, Forfeiture, etc.** Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantor or by any governmental agency against any of the Real Property. However, this subsection shall not apply in the event of a good faith dispute by Grantor as to the validity or reasonableness of the claim which is the basis of the foreclosure or forfeiture proceeding, provided that Grantor gives Lender written notice of such claim and furnishes reserves or a surety bond for the claim satisfactory to Lender.

**Breach of Other Agreement.** Any breach by Grantor under the terms of any other agreement between Grantor and Lender that is not remedied within any grace period provided therein, including without limitation any agreement concerning any indebtedness or other obligation of Grantor to Lender, whether existing now or later.

**Right to Cure.** If such a failure is curable and if Grantor has not been given a notice of a breach of the same provision of this Trust Deed within the preceding twelve (12) months, it may be cured (and no Event of Default will have occurred) if Grantor, after Lender sends written notice demanding cure of such failure: (a) cures the failure within fifteen (15) days; or (b) if the cure requires more than fifteen (15) days, immediately initiates steps sufficient to cure the failure and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

**RIGHTS AND REMEDIES ON DEFAULT.** Upon the occurrence of any Event of Default and at any time thereafter, Trustee or Lender, at its option, may exercise any one or more of the following rights and remedies, in addition to any other rights or remedies provided by law:

**Accelerate Indebtedness.** Lender shall have the right at its option without notice to Grantor to declare the entire Indebtedness immediately due and payable, including any prepayment penalty which Grantor would be required to pay.

**Foreclosure.** With respect to all or any part of the Real Property, the Trustee shall have the right to foreclose by notice and sale, and Lender shall have the right to foreclose by judicial foreclosure, in either case in accordance with and to the full extent provided by applicable law. If this Trust Deed is foreclosed by judicial foreclosure, Lender will be entitled to a judgment which will provide that if the foreclosure sale proceeds are insufficient to satisfy the judgment, execution may issue for the amount of the unpaid balance of the judgment.

**UCC Remedies.** To the extent this Trust Deed should also constitute a security agreement under the Uniform Commercial Code, Lender shall have all the rights and remedies of a secured party under the Uniform Commercial Code.

**Collect Rents.** Lender shall have the right, without notice to Grantor, to take possession of and manage the Real Property and collect the Rents, including amounts past due and unpaid, and apply the net proceeds, over and above Lender's costs, against the Indebtedness. In furtherance of this right, Lender may require any tenant or other user of the Real Property to make payments of rent or use fees directly to Lender. If the Rents are collected by Lender, then Grantor irrevocably designates Lender as Grantor's attorney-in-fact to endorse instruments received in payment thereof in the name of Grantor and to negotiate the same and collect the proceeds. Payments by tenants or other users to Lender in response to Lender's demand shall satisfy the obligations for which the payments are made, whether or not any proper grounds for the demand existed. Lender may exercise its rights under this subparagraph either in person, by agent, or through a receiver.

**Appoint Receiver.** If the Real Property ceases to be Grantor's homestead, and does not become farmland, Lender shall have the right to have a receiver appointed to take possession of all or any part of the Real Property, with the power to protect and preserve the Real Property, to operate the Real Property preceding foreclosure or sale, and to collect the Rents from the Real Property and apply the proceeds, over and above the cost of the



receivership, against the Indebtedness. The receiver may serve without bond if permitted by law. Lender's right to the appointment of a receiver shall exist whether or not the apparent value of the Real Property exceeds the Indebtedness by a substantial amount. Employment by Lender shall not disqualify a person from serving as a receiver.

**Tenancy at Sufferance.** If Grantor remains in possession of the Real Property after the Real Property is sold as provided above or Lender otherwise becomes entitled to possession of the Real Property upon default of Grantor, Grantor shall become a tenant at sufferance of Lender or the purchaser of the Real Property and shall, at Lender's option, either (a) pay a reasonable rental for the use of the Real Property, or (b) vacate the Real Property immediately upon the demand of Lender.

**Other Remedies.** Trustee or Lender shall have any other right or remedy provided in this Trust Deed or the Note or by law.

**Notice of Sale.** Lender shall give Grantor reasonable notice of the time and place of any public sale of any property which is, or shall be, security under the Uniform Commercial Code or of the time after which any private sale or other intended disposition of the property is to be made. Reasonable notice shall mean notice given at least ten (10) days before the time of the sale or disposition. Any sale of such property may be made in conjunction with any sale of the Real Property.

**Sale of the Real Property.** To the extent permitted by applicable law, Grantor hereby waives any and all rights to have the property subject to Uniform Commercial Code marshalled. In exercising its rights and remedies, the Trustee or Lender shall be free to sell all or any part of such property together or separately, in one sale or by separate sales. Lender shall be entitled to bid at any public sale on all or any portion of such property.

**Waiver of Remedies.** A waiver by any party of a breach of a provision of this Trust Deed shall not constitute a waiver of or prejudice the party's rights otherwise to demand strict compliance with that provision or any other provision. Election by Lender to pursue any remedy provided in this Trust Deed, the Note, in any Related Document, or provided by law shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantor under this Trust Deed after failure of Grantor to perform shall not affect Lender's right to declare a default and to exercise any of its remedies.

**Attorneys' Fees; Expenses.**

A. **Lender's:** If Lender institutes any suit or action to enforce any of the terms of this Trust Deed, Lender shall be entitled to recover such sum as the court may adjudge reasonable as attorneys' fees at trial and on any appeal. Whether or not any court action is involved, all reasonable expenses incurred by Lender which in Lender's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the Indebtedness payable on demand and shall bear interest at the Note rate from the date of expenditure until repaid. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's attorneys' fees whether or not there is a lawsuit, including attorneys' fees for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyors' reports, appraisal fees, title insurance, and fees for the Trustee, to the extent permitted by applicable law, Grantor also will pay any court costs, in addition to all other sums provided by law.

B. **Grantor's:** If Grantor is the prevailing party in any suit or action regarding the terms of this Trust Deed, the Note, or any related document, Grantor shall be entitled to recover such sum as the court may adjudge reasonable as attorney fees at trial and on any appeal. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, the cost of searching records, obtaining title reports, surveyors' reports, appraisal fees, and court costs, to the extent permitted by applicable law.

**Rights of Trustee.** Trustee shall have all of the rights and duties of Lender as set forth in this section.

**POWERS AND OBLIGATIONS OF TRUSTEE.** The following provisions relating to the powers and obligations of Trustee are part of this Trust Deed.

**Powers of Trustee.** In addition to all powers of Trustee arising as a matter of law, Trustee shall have the power to take the following actions with respect to the Real Property upon the written request of Lender and Grantor: (a) join in preparing and filing a map or plat of the Real Property, including the dedication of streets or other rights to the public; (b) join in granting any easement or creating any restriction on the Real Property; and (c) join in any subordination or other agreement affecting this Trust Deed or the interest of Lender under this Trust Deed.

**Obligations to Notify.** Trustee shall not be obligated to notify any other party of a pending sale under any other trust deed or lien, or of any action or proceeding in which Grantor, Lender, or Trustee shall be a party, unless the action or proceeding is brought by Trustee.

**Trustee.** Trustee shall meet all qualifications required for Trustee under applicable law. In addition to the rights and remedies set forth above, with respect to all or any part of the Real Property, the Trustee shall have the right to foreclose by notice and sale, and Lender shall have the right to foreclose by judicial foreclosure, in either case in accordance with and to the full extent provided by applicable law.

**Successor Trustee.** Lender, at Lender's option, may from time to time appoint a successor Trustee to any Trustee appointed hereunder by an instrument executed and acknowledged by Lender and recorded in the office of the recorder of Klamath County, Oregon. The instrument shall contain, in addition to all other matters required by state law, the names of the original Lender, Trustee, and Grantor, the book and page where this Trust Deed is recorded, and the name and address of the successor trustee, and the instrument shall be executed and acknowledged by Lender or its successors in interest. The successor trustee, without conveyance of the Real Property, shall succeed to all the title, power, and duties conferred upon the Trustee in this Trust Deed and by applicable law.

This procedure for substitution of trustee shall govern to the exclusion of all other provisions for substitution.

**NOTICES TO GRANTOR AND OTHER PARTIES.** Any notice under this Trust Deed shall be in writing, may be sent by telefacsimile, and shall be effective when actually delivered, or when deposited with a nationally recognized overnight courier, or, if mailed, shall be deemed effective when deposited in the United States mail first class, certified or registered mail, postage prepaid, directed to the addresses shown near the beginning of this Trust Deed. Any party may change its address for notices under this Trust Deed by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. All copies of notices of foreclosure from the holder of any lien which has priority over this Trust Deed shall be sent to Lender's address, as set forth on the signatory page of this Trust Deed. For notice purposes, Grantor agrees to keep Lender and Trustee informed at all times of Grantor's current address.

**MISCELLANEOUS PROVISIONS.** The following miscellaneous provisions are a part of this Trust Deed:

**Amendments.** This Trust Deed, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Trust Deed. No alteration of or amendment to this Trust Deed shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

**Applicable Law.** This Trust Deed has been delivered to Lender and accepted by Lender in the State of Oregon. This Trust Deed shall be governed by and construed in accordance with the laws of the State of Oregon.

**Caption Headings.** Caption headings in this Trust Deed are for convenience purposes only and are not to be used to interpret or define the provisions of this Trust Deed.

**Merger.** There shall be no merger of the interest or estate created by this Trust Deed with any other interest or estate in the Real Property at any time held by or for the benefit of Lender in any capacity, without the written consent of Lender.

**Severability.** If a court of competent jurisdiction finds any provision of this Trust Deed to be invalid or unenforceable as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other persons or circumstances. If feasible, any such offending provision shall be deemed to be modified to be within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Trust Deed in all other respects shall remain valid and enforceable.

**Successors and Assigns.** Subject to the limitations stated in this Trust Deed on transfer of Grantor's interest, this Trust Deed shall be binding upon and inure to the benefit of the parties, their respective heirs, successors and assigns. If ownership of the Real Property becomes vested in a person other than Grantor, Lender, without notice to Grantor, may deal with Grantor's successors with reference to this Trust Deed and the Indebtedness by way of forbearance or extension without releasing Grantor from the obligations of this Trust Deed or liability under the Indebtedness.

**Time Is of the Essence.** Time is of the essence in the performance of this Trust Deed.

**Waivers and Consents.** Lender shall not be deemed to have waived any rights under this Trust Deed (or under the Related Documents) unless such waiver is in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by any party of a provision of this Trust Deed shall not constitute a waiver of or prejudice the party's right otherwise to demand strict compliance with that provision or any other provision. No prior waiver by Lender, nor any course of dealing between Lender and Grantor, shall constitute a waiver of any of Lender's rights or any of Grantor's obligations as to any future transactions. Whenever consent by Lender is required in this Trust Deed, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required.

**Future Assurances.** Each party shall execute, with acknowledgment or affidavit (if required), all documents and/or instruments reasonably necessary or expedient in the achievement of the purpose of this Trust Deed.

**Words and Phrases.** The following words and phrases contained in this Trust Deed shall be construed as follows:

- Nouns and pronouns shall be construed in accordance with the appropriate gender or neuter, and as either singular or plural, as the context requires.
- "Shall," "will," "must," "agree," and "covenants" are each mandatory.
- "May" is permissive.
- "Or" is not exclusive.
- "Includes" and "including" are not limiting.

**GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS TRUST DEED AND GRANTOR AGREES TO ITS TERMS.**

Date

Signature

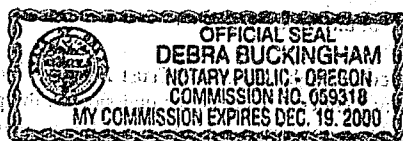
2/13/98

*Geneva Drinkwater*  
 Geneva Drinkwater, Trustee of the Geneva A. Drinkwater  
 Revocable Trust uda 10/18/93  
 Address: 3443 Meadow Oak, Cottonwood, CA 96022

[illegible]

SEAI

My Commission expires:



(To be used only when obligations have been paid in full)

To:

The undersigned is the legal owner and holder of all Indebtedness secured by this Trust Deed. All sums secured by this Trust Deed have been fully paid and satisfied. You are hereby directed, upon payment to you of any sums owing to you under the terms of this Trust Deed or pursuant to any applicable statute, to cancel the Note secured by this Trust Deed (which is delivered to you together with this Trust Deed), and to reconvey, without warranty, to the parties designated by the terms of this Trust Deed, the estate now held by you under this Trust Deed. Please mail the reconveyance and Related Documents to:

Date:

**Beneficiary:**

**By**

Its:

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of First American Title the 19th day  
of February A.D., 19 98 at 9:23 o'clock A. M., and duly recorded in Vol. M98  
of Mortgages on Page 5251

**FEE \$65.00**

By Kathleen Rose Bernetha G. Letsch, County Clerk