

05 MAY 16 PM 11:22

ORIGINAL

Vol M05 Page 35170

After Recording Return To:
Ms. Tori Shawl
Action Mortgage Company
5285 S.W. Meadows Road, Suite 175
Lake Oswego, Oregon 97035

State of Oregon, County of Klamath
Recorded 05/16/05 11:22 a m
Vol M05 Pg 35170-87
Linda Smith, County Clerk
Fee \$ 106.00 # of Pgs 18

aspentitleescrow

Tax Account Nos. R3909-014DA-05600-000

Loan # 150703066

(LINE OF CREDIT TRUST DEED)¹

**OREGON COMMERCIAL DEED OF TRUST,
ASSIGNMENT OF RENTS AND LEASES
AND SECURITY AGREEMENT**

(THIS DEED OF TRUST CONSTITUTES A CONSTRUCTION
MORTGAGE AS DEFINED IN ORS 79.3130)

The maximum principal amount to be advanced pursuant to the Note (defined below) is Eight Hundred Ninety Three Thousand One Hundred and No/100 Dollars (\$893,100.00); however, this Deed of Trust secures all other indebtedness evidenced by the Note or created in connection herewith, which indebtedness is potentially unlimited. The maximum principal amount to be advanced pursuant to the Note may be exceeded by advances to complete construction on the Property (defined below). The Note, which is intended as a "credit agreement" within the meaning of ORS 86.155, matures on May 1, 2008.

DATED: May 11, 2005.

GRANTEE: **MONTI'S CONSTRUCTION, INCORPORATED,**
an Oregon corporation
1504 Oregon Avenue
Klamath Falls, Oregon 97601 **HEREIN "BORROWER"**

TRUSTEE: **ASPEN TITLE & ESCROW, INC.**
525 Main Street
Klamath Falls, Oregon 97601 **HEREIN "TRUSTEE"**

BENEFICIARY: **STERLING SAVINGS BANK**
111 North Wall Street
Spokane, Washington 99201 **HEREIN "LENDER"**

THIS DEED OF TRUST WITNESSETH:

THAT for good and valuable consideration, the receipt of which is hereby acknowledged, Borrower does hereby irrevocably GRANT, BARGAIN, TRANSFER, SELL, CONVEY, WARRANT AND ASSIGN TO TRUSTEE, IN TRUST, WITH POWER OF SALE, that real property in the County of Klamath, State of Oregon, more particularly described as follows:

Parcel 1 of Land Partition 46-03, said Land Partition being a Replat of Parcel 2 of Land Partition 47-99, said Partition being situated in the NE ¼ SE ¼ Section 14, Township 39 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon.

CODE 089 MAP 3909-014DA TL 05600 KEY #575318

TOGETHER WITH the following described estate, property and rights of Borrower (herein collectively called the "Property") as security for the performance of each covenant and agreement of Borrower contained herein and in all other instruments executed in connection herewith, and for the payment of all sums of money secured hereby:

1. All of Borrower's legal and equitable right, title and interest in and to all of the following property of every kind and description (whether now or hereafter existing or acquired) that is attached to, erected upon, forming a part of, appurtenant to, situated in or upon, derived from, used or useful in the construction, completion, repair, maintenance, renovation, rehabilitation, alteration or operation of, or arising from the use, occupancy or enjoyment of, or in any way related to or in connection with, all or any portion of such real property, all of which shall be deemed part of the realty and not severable wholly or in part without material injury to the freehold:

¹ NOTE: This Deed of Trust is denominated a Line of Credit Trust Deed to comply with ORS 86.155 and is sometimes referred to herein as "Instrument."

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- (a) All the estate and rights of Borrower now held and hereafter acquired in and to land lying in streets and roads adjoining such real property, and all access rights and easements appertaining thereto;
- (b) All rents, issues, profits, royalties, income, leases, subleases, leasehold estates, cash, prepaid rentals, security or other tenant deposits and other payments of similar nature;
- (c) All appurtenances, tenements, hereditaments reversionary rights, sidewalks, alleys, strips and gores, easements, options to purchase, licenses, rights of first refusal, mineral, oil and gas, and water rights and shares of stock evidencing the same;
- (d) All buildings, improvements, structures, fixtures, equipment, machinery, furniture, goods, supplies and other tangible personal property;
- (e) All inventory, accounts, documents, instruments, general intangibles and contract rights; and
- (f) All contract, tort, insurance, condemnation and other claims, demands, settlement awards, damages, judgments or other similar rights.

INCLUDING, WITHOUT IN ANY WAY LIMITING ANY OF THE FOREGOING, all plans, specifications, drawings, surveys, tests, studies, licenses, permits, certificates of need, samples, forms, construction contracts, building materials, rights to further encumber any of such real property, patents, copyrights, trademarks, deposit accounts, goodwill, shrubbery, landscaping, tools, accessories, tax refunds, return premiums, utility deposits, refunds and rebates, fire sprinklers, alarm systems, heating, ventilating and air conditioning systems, refrigerators and refrigeration equipment, electronic monitoring, entertainment and recreational materials, window or structural cleaning rigs, pest extermination equipment and supplies, lobby furniture, indoor and outdoor furniture, tables, chairs, planters, desks, sofas, shelves, lockers, cabinets, wall beds, wall safes, appliances, ranges, utensils, ice boxes, fans, heaters, water heaters, incinerators, boilers, rugs, carpets, floor and window coverings, draperies, drapery rods and brackets, awnings, window shades, venetian blinds, curtains, lamps, chandeliers and other lighting fixtures, fuel, sanitation and drainage equipment and systems, laundry equipment, plumbing, sinks, toilets, showers and bathtubs, radios, televisions, antennae, screens, swimming pool equipment, vehicles, fittings and parts.

2. TOGETHER WITH all accessions and additions to, and all modifications, replacements substitutions, products and proceeds of the foregoing,

TO HAVE AND TO HOLD the Property bargained and described forever as security for the faithful performance of the Promissory Note secured hereby and as security for the faithful performance of each and all of the covenants, agreements, terms and conditions of this Deed of Trust, and in all other instruments executed in connection herewith, SUBJECT HOWEVER, to the right, power and authority given to and conferred upon Lender to collect and apply the above described rents, issues, and profits.

COVENANTS. Borrower and Lender covenant and agree as follows:

1. Obligations Secured and Covenants of Title. This Deed of Trust is made for the purpose of securing the performance of each agreement of Borrower herein and in the Construction Loan Agreement between Borrower and Lender dated May 11, 2005, (the "Loan Agreement"), relating hereto and the following instruments executed in connection therewith: the Note; the Loan Agreement; the Assignment of Sales Agreements, Leases and Rents; and the Assignment of Construction Contract, Engineer Contract and Permits, ("Related Documents") between Lender and Borrower; and payment of the indebtedness evidenced by one Promissory Note of even date herewith (herein "Note"), which provides for a variable rate of interest, payable to Lender or order, in the original principal sum of Eight Hundred Ninety Three Thousand One Hundred and No/100 Dollars (\$893,100.00), with interest thereon, with the balance of the indebtedness, if not sooner paid, due and payable on May 1, 2008, and all renewals, extensions, modifications, substitutions and consolidations of the Note; all future advances made to Borrower by Lender, its successors and assigns, under the Note or pursuant to the terms of this Deed of Trust or any other instruments and agreements executed in connection with or to secure the Note; and any and all other obligations of Borrower to Lender, its successors and assigns, now existing and hereafter arising and which are at any time specifically declared by Lender in writing to be secured by these presents or which specifically indicate in the instruments which evidence the same that they are intended to be so secured ("Secured Obligations").

Borrower covenants that Borrower is lawfully seized of the interest hereby conveyed and has the right to grant, convey and assign the Property, that the Property is unencumbered, except as specifically provided in Exhibit 1 attached hereto and by this reference incorporated herein, and that Borrower will warrant and defend generally the title to the Property against all claims and demands subject to the exceptions listed in Exhibit 1 hereto.

2. Payment of Principal and Interest. Borrower shall promptly pay when due all Secured Obligations, including without limitation all the principal of and interest on the indebtedness evidenced by the Note, any default and late charges provided in the Note, and all other sums secured by this Instrument and will strictly perform all obligations imposed by the Note, this Instrument and the Related Documents.

3. Funds for Taxes and Insurance. Subject to applicable law, if Lender shall request in writing, and thereafter until further notice, Borrower shall pay to Lender on the day monthly installments of interest

are payable under the Note (or on another day designated in writing by Lender), until the Note is paid in full, a sum (herein "Funds") equal to one twelfth (1/12th) of: (a) the yearly taxes and assessments which have been or may be levied on the Property; (b) the yearly premium installments for fire and other hazard insurance and such other insurance as Lender may require pursuant to the Commitment Letter and paragraph 6 hereof. Any waiver by Lender of a requirement that Borrower pay such Funds directly may be revoked by Lender, in Lender's sole discretion, at any time upon notice in writing to Borrower.

Lender may require Borrower to pay to Lender, in advance, such other Funds for other taxes, charges, premiums, assessments and impositions of a similar nature in connection with Borrower or the Property which Lender shall reasonably deem necessary to protect Lender's interests (herein "Other Impositions"). Unless otherwise provided by applicable law, Lender may require Funds for Other Impositions to be paid by Borrower in a lump sum or in periodic installments, at Lender's option.

The Funds shall be held in an institution(s), the deposits or accounts of which are insured or guaranteed by a federal or state agency (including Lender if Lender is such an institution). Lender shall apply the Funds to pay said rates, rents, taxes, assessments, insurance premiums and Other Impositions so long as Borrower is not in breach of any covenant or agreement of Borrower in this Instrument. Lender shall make no charge for so holding and applying the Funds, analyzing said account or for verifying and compiling said assessments and bills. If Lender requires the Funds to be established, the Funds may be commingled and invested with Lender's own funds or may be deposited in a non interest-bearing account, or an account bearing interest for Lender. The Funds are pledged as additional security for the sums secured by this Instrument.

If the amount of the Funds held by Lender at the time of the annual accounting therefor shall exceed the amount deemed necessary by Lender to provide for the payment of water and sewer rates, rents, taxes, assessments, insurance premiums, and Other Impositions, as they fall due, such excess shall be credited to Borrower on the next monthly installment or installments of Funds due. If at any time the amount of the Funds held by Lender shall be less than the amount deemed necessary by Lender to pay water and sewer rates, rents, taxes, assessments, insurance premiums, and Other Impositions, as they fall due, Borrower shall pay to Lender any amount necessary to make up the deficiency within thirty (30) days after notice from Lender to Borrower requesting payment thereof.

Upon Borrower's breach of any covenant or agreement of Borrower in this Instrument, Lender may apply, in any amount and in any order as Lender shall determine in Lender's sole discretion, any Funds held by Lender at the time of application (a) to pay water and sewer rates, rents, taxes, assessments, insurance premiums and Other Impositions which are now or will hereafter become due, or (b) as a credit against the other Secured Obligations. Upon payment and performance in full of all Secured Obligations, Lender shall refund to Borrower any excess Funds held by Lender.

Notwithstanding anything in this Section 3 to the contrary, Lender shall not require the payment of such Funds so long as there has been no delinquency in the payment of any taxes, assessments, or insurance premiums relating to the Property and no other default under the Note, the Related Documents or this Instrument.

4. Application of Payments. Unless applicable law provides otherwise, all payments received by Lender from Borrower under the Note or this Instrument shall be applied by Lender in the following order of priority: (a) amounts payable to Lender by Borrower under paragraph 3 hereof; (b) interest payable on the Note; (c) principal of the Note; (d) interest payable on advances made pursuant to paragraph 10 hereof; (e) principal of advances made pursuant to paragraph 10 hereof; and (f) any other sums secured by this Instrument in such order as Lender, at Lender's option, may determine.

5. Charges; Liens. Borrower shall pay all water and sewer rates, rents, taxes (including but not limited to special assessments and other charges against the Property by governmental or quasi-governmental bodies and any intangible personal property taxes imposed upon Lender for the holding of this Instrument), assessments, premiums, and Other Impositions attributable to the Property at Lender's option in the manner provided under paragraph 3 hereof or, if not paid in such manner, by Borrower making payment, when due, directly to the payee thereof, or in such other manner as Lender may designate in writing. Borrower shall promptly furnish to Lender all notices of amounts due under this paragraph 5, and in the event Borrower shall make payment directly, Borrower shall promptly furnish to Lender receipts evidencing such payments. Borrower shall promptly discharge any lien which has, or may have, priority over or equality with, the lien of this Instrument, and Borrower shall pay, when due, the claims of all persons supplying labor or materials to or in connection with the Property. Without Lender's prior written permission, Borrower shall not allow any lien inferior to this Instrument to be perfected against the Property.

Borrower 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 Property is not jeopardized. If a lien arises or is filed as a result of non-payment, Borrower shall within fifteen (15) days secure the discharge of the lien or 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, attorney fees or other charges that could accrue as a result of a foreclosure or sale under the lien.

If any federal, state or local tax to which this paragraph 5 applies is enacted subsequent to the date of this Instrument, enactment shall constitute a default and Lender may exercise any or all of the remedies

available to it in the event of a default unless Borrower may lawfully pay the tax or charge imposed by the tax; and Borrower pays the tax or charge within thirty (30) days after notice from Lender that the tax law has been enacted.

6. Insurance. Borrower shall keep the improvements now existing or hereafter erected on the Property and all other real or personal property securing this loan insured by carriers at all times satisfactory to Lender against loss by fire, hazards included within the term "extended coverage," rent loss, use and occupancy insurance and such other hazards, casualties, liabilities and contingencies as Lender shall require and in such amounts and for such periods as Lender shall require. All premiums on insurance policies shall be paid, at Lender's option, in the manner provided under paragraph 3 hereof, or in such other manner as Lender may designate in writing.

All insurance policies and renewals thereof shall be in a form acceptable to Lender and shall include a standard mortgage clause in favor of and in form acceptable to Lender with loss payable to Lender. Prior to disbursement of any loan funds and at least thirty (30) days prior to the expiration date of a policy, Borrower shall deliver or cause to be delivered to Lender certificates of coverage from each insurer confirming required coverage and containing a stipulation that coverage will not be cancelled, modified or diminished without a minimum of ten (10) days' prior written notice to Lender; Borrower shall request in writing that each insurer deliver to Lender a certified copy of the policies or renewals thereof; and Borrower shall furnish Lender with a copy of such request. Borrower shall promptly furnish to Lender all renewal notices and all receipts of paid premiums.

In the event of loss, Borrower shall give immediate written notice to the insurance carrier and to Lender. Borrower hereby authorizes and empowers Lender as attorney-in-fact for Borrower to make proof of loss, to adjust and compromise any claim under insurance policies, to appear in and prosecute any action arising from such insurance policies, to collect and receive insurance proceeds, and to deduct therefrom Lender's expenses incurred in the collection of such proceeds; provided however, that nothing contained in this paragraph 6 shall require Lender to incur any expense or take any action hereunder. Borrower further authorizes Lender, at Lender's option, (a) to hold the balance of such proceeds to be used to reimburse Borrower for the cost of reconstruction or repair of the Property or (b) to apply the balance of such proceeds to the payment of the sums secured by this Instrument, whether or not then due, in the order of application set forth in paragraph 4 hereof.

If the insurance proceeds are held by Lender to reimburse Borrower for the cost of restoration and repair of the Property, the Property shall be restored to the equivalent of its original condition or such other condition as Lender may approve in writing. Lender may, at Lender's option, condition disbursement of said proceeds on Lender's approval of such plans and specifications of an architect satisfactory to Lender, contractor cost estimates, architect's certificates, waivers of liens, sworn statements of mechanics and materialmen and such other evidence of costs, percentage completion of construction, application of payments, and satisfaction of liens as Lender may reasonably require. If the insurance proceeds are applied to the payment of the sums secured by this Instrument, any such application of proceeds to principal shall not extend or postpone the due dates of the monthly installments and other payments referred to in this Instrument or in the Note unless Borrower and Lender otherwise agree in writing. If the Property is sold pursuant to paragraph 31 hereof or if Lender acquires title to the Property, Lender shall have all of the right, title and interest of Borrower in and to any insurance policies and unearned premiums thereon and in and to the proceeds resulting from any damage to the Property prior to such sale or acquisition.

7. Hazardous Use and Materials. Except to the extent actually required in connection with the lawful use of the Property by Borrower and its tenants, Borrower shall permit no dangerous objects, materials, or products to be located upon the Property. In no event may any hazardous materials be located or stored upon, generated from, transported to or from, disposed of or used in any portion of the Property, nor may any hazardous or dangerous use to be made of the Property, and Borrower shall keep the Property in a safe condition in full compliance with all safety, health and environmental statutes, ordinances and regulations. Borrower warrants to Lender that to the best of its knowledge and belief and following the advice of its legal counsel and environmental advisors, it has undertaken sufficient tests, surveys, assessments, inspections and analyses to cause Borrower to be relieved from liability for conditions existing prior to Borrower's acquisition of the Property under 42 U.S.C. § 9607(a) or any similar federal or state statute. Neither Borrower nor any of its directors, officers, agents or employees has any knowledge or reason to know that any asbestos, urea formaldehyde, poly-chlorinated biphenyl, radon, toxic, chemical, radioactive or other hazardous materials have been used, incorporated or stored in, transported to or from, disposed of, emitted from or leached or intruded into or on the Property, or that any underground storage tanks exist therein. Such hazardous materials include, without limitation, all gasoline and petroleum products, as well as any substance, material or waste which is or hereafter becomes regulated or classified as a hazardous substance, hazardous material, toxic substance, or solid waste under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, the Resource Conservation and Recovery Act of 1976, or the Hazardous Materials Transportation Act, or the regulations pertaining to such statutes, or any other statutes, laws and ordinances of the United States or of any state, county or municipality in which the Property is located. If the same do so exist, or hereafter exist on or within the Property, and whether or not presently known or discovered, Borrower covenants to immediately cause the same to be collected, stored, treated, and removed and the Property restored to the extent required by all then applicable federal, state and local regulations and to immediately pay all of the costs thereof. If any hazardous materials are currently incorporated into and either legally or otherwise permitted to be retained in the Property, Borrower shall, at its sole cost and expense, and to the full extent required by Lender or any regulatory authority, implement, supervise and ensure its and its managers', tenants',

agents', contractors', subcontractors' and employees' timely compliance with any operations and maintenance programs related to the safe and legal isolation, containment, and treatment of such materials. Borrower shall provide periodic reports to Lender which confirm Borrower's compliance with such program as, when and in such form required by Lender. Borrower shall give Lender prompt written notice of (a) any proceeding or inquiry by any governmental authority with respect to the alleged presence of any hazardous material on the Property or the emission or migration thereof from or to any other property, (b) all claims made or threatened by any other party against the Borrower or the Property relating to any alleged loss or injury resulting from any hazardous substance, and (c) Borrower's discovery or occurrence of any condition on the Property or any property adjoining or in the vicinity of the Property that could cause the Property to be subject to any federal, state or local statute, ordinance or regulation with respect to the proper disposal or cleanup of such materials. Lender shall have the right to join and participate in, as a party if it so elects, any legal or administrative proceedings or actions initiated with respect to the Property in connection with any environmental law, and Borrower agrees to pay Lender's reasonable attorney fees and court costs in so doing. Borrower agrees to defend, indemnify and hold Lender, its directors, officers, agents, employees, participants and assigns harmless against any diminution in the value of the Property, and all costs to release any environmental lien and of any required alterations, reconstruction, repairs, cleanup or detoxification of the Property and the preparation and implementation of any closure, operations and maintenance, remedial or other required plans, whether or not the hazardous materials were known to or caused by Borrower, all to the extent such diminution occurs and such costs are paid or advanced by Lender prior to a foreclosure of or trustee's sale under this Deed of Trust or Lender's acceptance of a deed in lieu thereof. This indemnification shall be Secured by this Deed of Trust, but only to the extent Borrower's liabilities hereunder are not specifically included in any separate, unsecured hazardous waste indemnification agreement executed in favor of Lender by Borrower or other persons in connection with the Property and the loan evidenced by the Note (the "Indemnity"). Borrower specifically acknowledges that the Indemnity is not secured by this Deed of Trust, nor shall any of Borrower's liabilities encompassed by the Indemnity be so secured (including, without limitation, the extent to which such liability may also be encompassed by any covenants of Borrower in this Deed of Trust which are covered by the Indemnity and which relate to the status of title, the maintenance and repair of the Property or of improvements thereon, and the compliance of Borrower with any contract, lease, lien, statute, law or ordinance). All of the obligations and rights evidenced by the Indemnity shall survive the reconveyance of and any sheriff's or trustee's sale under this Deed of Trust or a deed in lieu thereof or any other form of voluntary or involuntary satisfaction or cancellation of this Deed of Trust. The creation or filing of any lien against the Property or any portion thereof as a result of the actual or alleged presence on the Property of any hazardous materials, any misrepresentation of Borrower herein or the failure of Borrower to give ally notice, make any payment or promptly or continuously pursue any action referred to in this paragraph shall constitute a default under this Deed of Trust.

8. Preservation and Maintenance of Property. Borrower (a) shall neither conduct or permit any nuisance nor commit waste or permit impairment or deterioration of the Property; (b) shall not abandon the Property; (c) shall keep the Property in good condition and repair and shall restore or repair promptly and in a good and workmanlike manner all or any part of the Property to the equivalent of its original condition, or such other condition as Lender may approve in writing, in the event of any damage, injury or loss thereto, whether or not insurance proceeds are available to cover in whole or in part the costs of such restoration or repair; (d) shall keep the Property, including without limitation, improvements, fixtures, goods, equipment, machinery, goods and appliances hereon in good repair and shall replace fixtures, equipment, machinery, and appliances on the Property when necessary to keep such items in good repair; (e) shall comply with all laws, ordinances, regulations, covenants, conditions and restrictions, and requirements of any governmental body applicable to the use or occupancy of the Property and will hold Lender harmless against any violations thereof; (f) shall not commit, suffer or permit any act upon said Property in violation of law; (g) shall cultivate, irrigate, fertilize, prune and do all other acts which from the character or use of the Property may be reasonably necessary, the specific enumeration herein not excluding the general; (h) shall, if Lender requests, provide for professional management of the Property by a property manager satisfactory to Lender pursuant to a contract approved by Lender in writing; (i) shall generally operate and maintain the Property in a manner to insure maximum rentals (if applicable); and (j) shall give notice in writing to Lender of and, unless otherwise directed in writing to Lender, appear in and defend any action or proceedings purporting to affect the Property, the security of this Instrument, or the rights or powers of Lender. Neither Borrower nor any tenant or other person shall remove, demolish or alter any improvement now existing or hereafter erected on the Property or any fixture, equipment, machinery, or appliance in or on the Property except when incident to its replacement with item of like kind. Improvements shall include all existing and future buildings, structures, parking facilities and other improvements.

9. Use of Property. Unless required by applicable law or unless Lender has otherwise agreed in writing, Borrower shall not allow changes in the use for which all or any part of the Property was intended at the time this Instrument was executed. Borrower shall not initiate or acquiesce in a change in the zoning or land use classification of the Property without Lender's prior written consent.

10. Protection of Lender's Security. Except as permitted in Exhibit 1 hereto, Borrower shall not permit any lien, mortgage or encumbrance prior, equal or inferior to the lien of this Instrument to be imposed or perfected upon the Property. If Borrower fails to perform the covenants and agreements contained in this Instrument, or if any action or proceeding is commenced which affects the Property or title thereto or the interest of Lender therein, including, but not limited to, eminent domain, insolvency, code enforcement, or proceedings involving a bankrupt or decedent, then Lender at Lender's option may make such appearances, disburse such sums and take such action as Lender deems necessary, in its sole discretion, to protect Lender's interest, including, but not limited to, (a) disbursement of attorney fees,

(b) entry upon the Property to make repairs, and (c) procurement of satisfactory insurance as provided in paragraph 6 hereof.

Any amounts disbursed by Lender pursuant to this paragraph 10, with interest thereon at the applicable Note rate, shall become additional indebtedness of Borrower secured by this Instrument. Unless Borrower and Lender agree to other terms of payment, such amounts shall be immediately due and payable and shall bear interest from the date of disbursement at the applicable Note rate unless collection from Borrower of interest at such rate would be contrary to applicable law. Borrower hereby covenants and agrees that Lender shall be subrogated to the lien of any mortgage or other lien discharged, in whole or in part, by the indebtedness secured hereby. Nothing contained in this paragraph 10 shall require Lender to incur any expense or take any action hereunder.

11. Inspections and Appraisals. Lender may make or cause to be made reasonable entries upon the Property for the purposes of inspection of the Property and performing an appraisal. An appraisal may be required at any time after Borrower's default at Lender's option and Borrower's expense.

12. Books and Records. Borrower shall keep and maintain at all times at Borrower's address stated below, or such other place as Lender may approve in writing, complete and accurate books of accounts and records in accordance with Generally Accepted Accounting Principles (or any other method acceptable to Lender) adequate to reflect correctly the results of the operation of the Property and copies of all written contracts, leases and other instruments which affect the Property. Upon breach by Borrower of any covenant or agreement of Borrower in this Instrument, such books, records, contracts, leases, and other instruments shall be subject to examination and inspection at any reasonable time by Lender, and shall be delivered to Lender, at Lender's request, together with a balance sheet, a statement of income and expenses of the Property and a statement of changes in financial position, each in reasonable detail and certified by Borrower and, if Lender shall require, by an independent certified public accountant, and together with a rent schedule for the Property, certified by Borrower, showing the name of each tenant, and for each tenant, the space occupied, the lease expiration date, the rent payable, and the rent paid.

13. Condemnation. Borrower shall promptly notify Lender of any action or proceeding relating to any condemnation, exercise of the power of eminent domain or other taking, whether direct or indirect, of the Property, or part thereof, and Borrower shall appear in and prosecute/defend any such action or proceeding unless otherwise agreed to by Lender and Borrower in writing. Borrower (notwithstanding that Lender may not be a party to any such proceeding) will promptly give Lender copies of notices, pleadings, judgments, determinations and other papers received by Borrower. If Borrower elects not to prosecute/defend any such action within fifteen (15) days after service on Borrower of a summons relating thereto from a court of competent jurisdiction, or if Borrower fails to notify Lender in writing of Borrower's election to prosecute/defend such action within said fifteen (15) day period, Borrower authorizes Lender, at Lender's option, as attorney-in-fact for Borrower, to commence, appear in and prosecute, and be represented by counsel in Lender's or Borrower's name, any action or proceeding relating to any condemnation or other taking of the Property, or part thereof, whether direct or indirect, and to settle or compromise any claim in connection with such condemnation or other taking. The proceeds of any award, payment, or claim for damages, direct or consequential, in connection with any condemnation or other taking, whether direct or indirect, of the Property, or any part hereof, or for conveyances in lieu of condemnation, are hereby assigned to and shall be paid to Lender. Borrower will not enter into any agreement for the taking of all or a part of the Property, unless Lender shall have first consented thereto in writing.

Borrower authorizes Lender to apply such awards, payments, proceeds or damages, after the deduction of Lender's expenses incurred in the collection of such amounts, at Lender's option, to restoration or repair of the Property or to payment of the sums secured by this Instrument, whether or not then due, in the order of application set forth in paragraph 4 hereof, with the balance, if any, to Borrower. Unless Borrower and Lender otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly installments and other payments referred to in this Instrument. Borrower agrees to execute such further evidence of assignment of any awards, proceeds, damages or claims arising in connection with such condemnation or taking as Lender may require.

14. Borrower and Lien Not Released. From time to time, Lender may, at Lender's option, without giving notice to or obtaining the consent of Borrower, Borrower's successors or assigns or of any junior lienholder or guarantors, without liability on Lender's part and notwithstanding Borrower's breach of any covenant or agreement of Borrower in this Instrument, and without affecting the lien or other rights of Lender with respect to any Property or other security not expressly released in writing, extend the time for payment of said indebtedness or any part thereof, reduce the payments thereon, release anyone liable on any of said indebtedness, accept a renewal note or notes therefor, accept additional security of any kind, authorize the Trustee to release from the lien of this Instrument or impair any part of the Property, take or release other or additional security, reconvey any part of the Property, consent to any map or plan of the Property, consent to the granting of any easement, join in any extension, modification or subordination agreement, and Lender can agree in writing with Borrower to modify the rate of interest or period of amortization of the Note, change the amount of the monthly installments payable thereunder, or change the maturity date of the indebtedness. Any actions taken by Lender pursuant to the terms of this paragraph 14 shall not affect the obligation of Borrower or Borrower's successors or assigns to pay the sums secured by this Instrument and to observe the covenants of Borrower contained herein, shall not affect the guaranty of any person, corporation, partnership or other entity for payment of the indebtedness secured hereby, and shall not affect the lien or priority of lien hereof on the Property. Borrower shall pay Lender a reasonable

service charge, together with such title insurance premiums and attorney fees and other costs or charges as may be incurred, at Lender's option, for any such action if taken at Borrower's request.

15. Forbearance by Lender Not a Waiver. Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any right or remedy. The acceptance by Lender of payment of any sum secured by this Instrument after the due date of such payment shall not be a waiver of Lender's right to either require prompt payment when due of all other sums so secured or to declare a default for failure to make prompt payment. The procurement of insurance or the payment of taxes or other liens or charges by Lender shall not be a waiver of Lender's right to accelerate the maturity of the indebtedness secured by this Instrument, nor shall Lender's receipt of any awards, proceeds or damages under paragraphs 6 and 13 hereof operate to cure or waive any acceleration of the Note or Borrower's default in payment of sums secured by this Instrument.

16. Estoppel Certificate. Borrower shall, within ten (10) days of a written request from Lender, furnish Lender with a written statement, duly acknowledged, setting forth the sums secured by this Instrument and any right of setoff, counterclaim or other defense which exists against such sums and the obligations of this Instrument. In the event Borrower fails to provide such written statement within ten (10) days after Lender's request, all statements made by Lender in the form of request shall be deemed true and accurate, and Borrower shall be estopped from asserting otherwise or raising contrary contentions in defense of any action commenced by Lender. Borrower agrees and understands that Lender and third parties may rely upon the statements contained in any form of request or estoppel certificate.

17. Uniform Commercial Code Security Agreement. This Instrument is intended to be a security agreement pursuant to the Uniform Commercial Code for any part of the Property which, under applicable law, may be subject to a security interest pursuant to the Uniform Commercial Code, and Borrower hereby grants Lender a security interest in such Property.

Borrower shall give advance notice in writing to Lender of any proposed change in Borrower's name, identity, structure or address and shall execute and deliver to Lender, prior to or concurrently with the occurrence of any such change, all additional financing statements that Lender may require to establish and maintain the validity and priority of Lender's security interest with respect to any of the Property described or referred to herein.

Some of the items of the Property are goods that are or are to become fixtures relating to the real property, and it is intended that, as to these goods, this Instrument shall be effective as a financing statement filed as a fixture filing from the date of its filing for record in the real estate records of the county in which the Property is situated. Information concerning the security interest created by this Instrument may be obtained from Lender, as secured party, at the address of Lender stated above. The mailing address of Borrower, as debtor, is as stated above.

Borrower agrees that Lender may file this Instrument, or a reproduction hereof, in the real estate records or other appropriate index, as a financing statement for any of the items specified above as part of the Property. Any reproduction of this Instrument or of any other security agreement or financing statement shall be sufficient as a financing statement. In addition, Borrower agrees to execute and deliver to Lender, upon Lender's request, any financing statement, as well as extensions, renewals and amendments thereof, and reproductions of this Instrument in such form as Lender may require to perfect a security interest with respect to said items. Borrower shall pay all costs of filing such financing statements and any extensions, renewals, amendments and releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements Lender may reasonably require.

Without the prior written consent of Lender, Borrower shall not create or suffer to be created pursuant to the Uniform Commercial Code any other security interest in any of the Property, including replacements and additions thereto. Upon Borrower's breach of any covenant or agreement of Borrower contained in this Instrument, including the covenants to pay when due all sums secured by this Instrument, Lender shall have the remedies of a secured party under the Uniform Commercial Code and, at Lender's option, may also invoke the remedies provided in paragraph 31 of this Instrument as to such items. In exercising any of said remedies, Lender may proceed against the items of real property and any items of personal property specified above as part of the Property separately or together and in any order or combination whatsoever, without in any way affecting the availability to Lender of remedies under the Uniform Commercial Code or of the remedies provided in paragraph 31 of this Instrument.

18. Sales Agreements and Occupancy Leases.

a. Borrower covenants and agrees to keep, observe, and perform and to require the purchaser or tenants to keep, observe and perform all of the covenants, agreements, and provisions of any future sale agreement or leases of any portion of the Property on their respective parts to be kept, observed, and performed, and, in case Borrower shall neglect or refuse to do so, then Lender may, if it shall so elect, perform and comply with or require performance and compliance by the tenants with any such lease covenants, agreements and provisions, and any sums expended by Lender in performance or compliance therewith or in enforcing such performance of compliance by the purchaser or tenants, including costs, expenses and attorney fees shall bear interest from the date of such expenditures at the applicable Note rate, shall be paid by Borrower to Lender upon demand, and shall be deemed a part of the debt secured hereby and recoverable as such in all respects.

b. In addition to the covenants and terms herein contained and not in limitation thereof, Borrower covenants that Borrower will not in any case cancel, abridge or otherwise modify sales agreement tenancies, subtenancies, leases, or subleases of the Property or accept prepayments of installments of amounts to become due thereunder.

c. Each future lease of the Property or any part thereof or any renewal, modification, or extension of any existing lease (which by operation of law would otherwise be junior and subordinate to this Instrument) may, at Lender's option, exercisable at any time prior to foreclosure of this Instrument, be made senior to this Instrument.

d. Borrower will not:

(1) Execute any future lease of any portion of the Property without the prior written consent of Lender to the form, terms, and conditions thereof which consent will not be unreasonably withheld and may be conditioned upon the receipt by Lender of an attornment agreement from the lessee. Such consent will be deemed given if not denied in writing twenty (20) days after written request therefor; or

(2) Execute an assignment of the income or rents or any part thereof from the Property without Lender's written consent which may be withheld in Lender's sole discretion, and unless such assignment shall provide that it is subordinate to the assignment contained in this Instrument and any assignment executed pursuant hereto; or

(3) Except where the purchaser or lessee is in default thereunder, terminate or consent to cancellation or surrender of any purchase agreement or lease of the Property or any part thereof, now existing or hereafter to be made, unless, promptly after the cancellation or surrender of any purchase agreement or lease, a new purchase agreement or lease is entered into with a new purchaser or lessee satisfactory to Lender on substantially the same terms as the terminated or cancelled purchase agreement or lease; or

(4) Modify any such purchase agreement or lease so as to decrease the amount of the purchase price or rents payable thereunder; or

(5) Accept prepayments of any installments of purchase price or rents to become due under such agreements, except prepayments in the nature of security for the performance of the leases thereunder; or

(6) In any other manner impair the value of the Property or the security of Lender for the payment of the sums due pursuant to this Instrument and the Note secured hereby.

e. Borrower shall furnish to Lender, within thirty (30) days after a request by Lender to do so, a written statement containing the names of all purchasers and lessees of the Property, the terms of their respective purchase agreements or leases, the spaces sold or occupied and the purchase price or rental paid.

By executing this Instrument, Borrower hereby assigns to Lender all purchase agreements or leases now existing or hereafter made of all or any part of the Property and all security deposits or payments in connection with such purchase agreements or leases of the Property. Upon this assignment by Borrower to Lender, Lender shall have all of the rights and powers possessed by Borrower prior to such assignment and Lender shall have the right to modify, extend or terminate such purchase agreements or leases and to execute new purchase agreements or leases, in Lender's sole discretion.

19. Remedies Cumulative. Each remedy provided in this Instrument is distinct and cumulative to all other rights or remedies under this Instrument or afforded by law or equity, and may be exercised concurrently, independently, or successively, in any order whatsoever.

20. Events of Default. The occurrence of any of the following shall, without notice, demand or opportunity to cure, constitute an event of default under this Instrument and each of the Related Documents:

a. Failure of Borrower to make any payment required to be paid by Borrower under the Note or this Instrument in strict accordance with the terms thereof;

b. Failure of Borrower to perform any other covenant, agreement or other obligation contained in this Instrument, the Note or Related Documents;

c. Any warranty, representation, or statement made or furnished to Lender by or on behalf of Borrower proving to be or having been false in any material respect when made or furnished;

d. Commencement of foreclosure, whether by judicial proceeding, self-help, repossession, or any other method, by any creditor of Borrower against any of the Property, but this subsection shall not apply in the event of a good faith dispute by Borrower as to the validity or reasonableness of the claim which is the basis of the foreclosure suit, provided that Borrower provides Lender with written notice of such claim and provides adequate reserves and guarantees therefor;

- e. The occurrence of any event of default under the Related Documents;
- f. Death of any guarantor;
- g. If any building on the Property shall be removed or demolished or threatened with demolition;
- h. If any assignment by Borrower or any guarantor of the Note, or either of them, for the benefit of creditors shall be made; or
- i. If Borrower or any guarantor of the indebtedness shall voluntarily file a petition under the Federal Bankruptcy Act, as such Act may from time to time be amended, or under any similar or successor Federal statute relating to bankruptcy, insolvency arrangements or reorganizations, or under any state bankruptcy or insolvency act, or file an answer in an involuntary proceeding admitting insolvency or inability to pay debts, or if Borrower or any guarantor shall fail to obtain a vacation or stay of involuntary proceedings brought for the reorganization, dissolution or liquidation of Borrower or any guarantor, or if Borrower or any guarantor shall be adjudged a bankrupt, or upon dissolution, business failure or discontinuance of Borrower or any guarantor as a going business (except for labor disputes), or if a trustee or receiver shall be appointed for Borrower or any guarantor or Borrower's or any guarantor's property, or if the Property shall become subject to the jurisdiction of a Federal bankruptcy court, or similar state court, or if Borrower or any guarantor shall make an assignment for the benefit of creditors, or if there is an attachment, execution or other judicial seizure of any portion of Borrower's or any guarantor's assets and such seizure is not discharged within ten (10) days.

Upon an event of default, except as otherwise provided below, Lender shall not accelerate the debt which this Deed of Trust secures, make any payments for which Borrower is primarily liable, or foreclose upon or attach any assets of Borrower unless it first gives Borrower written notice of such default at Borrower's address and in the manner described for notices in this Deed of Trust and unless such default is not fully cured within the following periods:

(a) ten (10) days after such notice is given in the event of any failure to make a monetary payment to any person;

(b) thirty (30) days after such notice is given in the event of nonmonetary defaults not subject to other provisions of this paragraph, provided (i) within ten (10) days after such notice is given Borrower commences its cure and submits to Lender in writing its plan to cure, and (ii) said cure is continuously pursued by Borrower with due diligence. If said default is not reasonably capable of being cured within thirty (30) days, Borrower shall have such additional time as is reasonably necessary to complete the cure, but in no event for more than ninety (90) days after the notice of default is given, all provided (x) said default is in Lender's reasonable judgment curable within said period, (y) Borrower provides Lender with written, detailed progress reports at least every thirty (30) days until the cure is completed, and (z) Borrower continuously and diligently pursues said cure; or

(c) sixty (60) days after the filing of any involuntary petition in bankruptcy against or for the appointment of a receiver for Borrower, owner of the Property, or any guarantor of the Note (except for petitions filed by Lender), with the dismissal of such petitions by the court within such period being deemed to cure such default.

Notwithstanding the above provisions, the notice and cure period provided for in this paragraph shall not apply:

(i) if any building on the Property shall be removed or demolished or threatened with demolition,

(ii) if a petition shall be filed by Borrower, owner of the Property or any guarantor of the Note under the Federal Bankruptcy Act, or Acts amendatory thereof or supplemental thereto, or under any statute either of the United States or any state in connection with insolvency or reorganization, or for the appointment of a receiver or trustee of all or a portion of Borrower's, owner's, or any such guarantor's property; or

(iii) if any assignment by Borrower, owner, any guarantor of the Note, or any of them, for the benefit of creditors shall be made; or

(iv) for any event of default provided for in this Deed of Trust or other loan documents for which a notice and cure period is not specifically provided, or for any event of default which is not curable.

The provisions of this paragraph shall apply to defaults under the Loan Agreement and under all documents executed as security for the Note, and unless expressly stated to the contrary in such documents any notice or cure period referred to therein shall be deemed to incorporate said provisions. If any of said documents are inconsistent with this paragraph, this paragraph shall be controlling, unless said other document expressly provides otherwise. Where additional notice or cure periods are provided in this or any other such documents or are required by any other contract or by law, said periods and those contained in this paragraph shall run concurrently. Nothing in this paragraph shall be construed as extending the term of the

Note or the date upon which a default occurs, and no decision to forego any remedy for any given default shall be deemed a waiver on the part of Lender of any right relating to any other default. No failure to give any notice of any default shall constitute a waiver of such default or any remedy which may be available in connection therewith. This paragraph shall be strictly construed, and shall not impair the exercise of any remedy not referred to above immediately upon default, including, without limitation, the seeking of any mandatory or prohibitive injunction or restraining order or appointment of a receiver.

21. Assignments and Transfers. Borrower acknowledges that Lender has relied upon Borrower's financial statements, credit history, business and real property managerial expertise and other factors personal to Borrower in making the loan secured by this Deed of Trust, and Borrower covenants not to voluntarily or involuntarily sell or otherwise transfer its ownership of the Property or any part thereof except as permitted in Section 50 hereof. Transfers of stock, membership or partnership interests in Borrower or any successor of Borrower, transfers by leases with purchase options, conveyances by real estate contract, and through foreclosures or other forced sales or forfeitures shall each be deemed a transfer of Borrower's interest in the Property for the purposes of this paragraph.

22. Further Encumbrances. Borrower acknowledges that Lender has relied upon the Property not being subject to additional liens or encumbrances for reasons which include, but are not limited to, the possibility of competing claims or the promotion of plans disadvantageous to Lender in bankruptcy; the risks to Lender in a junior lienholder's bankruptcy; questions which involve the priority of future advances, the priority of future leases of the Property, the marshaling of Borrower's assets, and Lender's rights to determine the application of condemnation awards and insurance proceeds; the impairment of Lender's option to accept a deed in lieu of foreclosure; and Lender's requirements concerning Borrower's preservation of its equity in the Property and the absence of debt which could increase the likelihood of Borrower's inability to perform its obligations when due. Therefore, as a principal inducement to Lender to make the loan secured by this Deed of Trust and with the knowledge that Lender will materially rely upon this paragraph in so doing, Borrower covenants not to voluntarily or involuntarily encumber the Property or any part thereof. Without limiting the generality of the foregoing and irrespective of the priority thereof, no mortgages, deeds of trust or other forms of security interests shall encumber any real or personal property which is the subject of any lien or security interest granted to Lender as security for the Note. Encumbrances and hypothecations of stock or partnership interests in Borrower or any successor of Borrower, sale lease-backs, transfers by leases with purchase options, and conveyances by real estate contract shall each be deemed an encumbrance for the purposes of this paragraph.

23. Notice. Except for any notice required under applicable law to be given in another manner, (a) any notice to Borrower provided for in this Instrument or in any Note shall be given by mailing such notice by certified mail, return receipt requested, addressed to Borrower at Borrower's address stated herein or at such other address as Borrower may designate by notice to Lender as provided herein, and (b) any notice to Lender shall be given by certified mail, return receipt requested, to Lender's address stated herein or to such other address as Lender may designate by notice to Borrower as provided herein. Any notice provided for in this Instrument or in the Note shall be deemed to have been given to Borrower or Lender when given in the manner designated herein.

24. Successors and Assigns Bound; Joint and Several Liability; Agents; Caption. The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Lender and Borrower, subject to the limitations on assignment by Borrower contained herein. All covenants and agreements of Borrower shall be joint and several. In exercising any rights hereunder or taking any actions provided for herein, Lender may act through its employees, agents or independent contractors as authorized by Lender. Lender may disclose to any participants or prospective participants any information or other data or material in Lender's possession relating to Borrower and the loan without the consent of or notice to Borrower. The captions and headings of the paragraphs of this Instrument are for convenience only and are not to be used to interpret or define the provisions hereof.

25. Governing Law; Severability. This Instrument shall be governed by the laws of the State of Oregon, the jurisdiction in which the Property is located. In the event that any provision or clause of this Instrument or the Note conflicts with applicable law, or shall be held to be invalid, illegal or unenforceable such conflict or unenforceability shall not affect other provisions of this Instrument or the Note which can be given effect without the conflicting provision, and to this end the provisions of this Instrument and the Note are declared to be severable. In the event that any applicable law limiting the amount of interest or other charges permitted to be collected from Borrower is interpreted so that any charge provided for in this Instrument or in the Note, whether considered separately or together with other charges levied in connection with this Instrument and the Note, violates such law, and Borrower is entitled to the benefit of such law, such charge is hereby reduced to the extent necessary to eliminate such violation. For the purpose of determining whether any applicable law limiting the amount of interest or other charges permitted to be collected from Borrower has been violated, all indebtedness which is secured by this Instrument or evidenced by the Note and which constitutes interest, as well as all other charges levied in connection with such indebtedness which constitute interest, shall be deemed to be allocated and spread over the stated amortization period of the loan. Unless otherwise required by applicable law, such allocation and spreading shall be effected in such a manner that the rate of interest computed thereby is uniform throughout the stated term of the Note.

26. Waiver of Statute of Limitations. To the extent permitted by law, Borrower hereby waives the right to assert any statute of limitations as a bar to the enforcement of the lien of this Instrument or to any action brought to enforce the Note or any other obligation secured by this Instrument.

27. Waiver of Marshalling. Notwithstanding the existence of any other security interests in the Property held by Lender or by any other party, Lender shall have the right to determine the order in which any or all of the Property shall be subjected to the remedies provided herein. Lender shall have the right to determine the order in which any or all portions of the indebtedness secured hereby are satisfied from the proceeds realized upon the exercise of the remedies provided herein. Borrower, any party who consents to this Instrument, and any party who now or hereafter acquires a security interest in the Property and who has actual or constructive notice hereof hereby waives any and all right to require the marshalling of assets in connection with the exercise of any of the remedies permitted by applicable law or provided herein.

28. Commercial Trust Deed. This Trust Deed is not a residential deed of trust. So long as any of the debt secured hereby is unpaid, Borrower covenants and agrees that the Property shall remain nonresidential property. Borrower specifically consents to the appointment of a receiver to insure that the Property remains nonresidential property.

29. Assignment of Rents and Revenues; Appointment of Receiver; Lender in Possession. As part of the consideration for the indebtedness evidenced by the Note, Borrower hereby absolutely and unconditionally assigns and transfers to Lender all the rents and revenues of the Property, including those now due, past due, or to become due by virtue of any purchase agreement, lease or other agreement for the sale, occupancy or use of all or any part of the Property, regardless of to whom the rents and revenues of the Property are payable, subject to all of the terms and conditions of the Assignment of Sales Agreements, Leases and Rents executed in connection with this Instrument.

30. Possession. Until default, Borrower shall remain in possession and control of and operate and manage the Property and collect the rents, revenues, income, issues and profits, in accordance with the terms of the Assignment of Sales Agreements, Leases and Rents executed by Borrower in connection herewith.

31. Acceleration; Remedies. Upon any event of default or Borrower's breach of any covenant or agreement of Borrower in this Instrument or in the Note or any Related Documents, including, but not limited to, the covenants to pay when due any sums secured by this Instrument, Lender, at Lender's option following any applicable notice and cure period, may declare all of the sums secured by this Instrument to be immediately due and payable without further demand. Any default under this Instrument shall constitute a default under the Note which it secures and under all other security instruments securing the Note and all Related Documents. Likewise, any default under such other Security Agreements and Related Documents shall constitute a default under this Instrument.

Lender shall be entitled to collect all costs, including all deposition costs, and expenses incurred pursuing any of Lender's remedies, including, but not limited to, reasonable attorney fees, whether or not any action or proceeding is commenced and any such fees incurred in any appellate or bankruptcy proceeding, and costs of documentary evidence, abstracts and title or foreclosure reports.

Upon default and following any applicable notice and cure period, Lender may, at Lender's sole option, exercise any one or more of the following rights and remedies in addition to any other remedy available herein or at law:

a. Lender may have a receiver appointed as a matter of right or may exercise all rights of a receiver as a mortgagee-in-possession. Lender may, either through a receiver or as a mortgagee-in-possession, take possession of all or any part of the Property, and such Property shall be peaceably surrendered by Borrower. Lender may revoke Borrower's right to collect the rents and revenues from the Property, and may, either itself, through its agents or through a receiver, collect the same. To facilitate collection, Lender may notify Borrower's tenants to pay rents directly to Lender. Lender shall not be deemed a mortgagee-in-possession solely by reason of exercise of the rights contained in this subparagraph.

Lender also may have a receiver appointed as a matter of right whether or not the apparent value of the Property exceeds the amount of the secured indebtedness, and any receiver appointed may serve without bond. Lender's agents or employees may serve as receiver. Upon taking possession of all or any part of the Property the receiver or Lender may:

- (1) Use, operate, manage, control and conduct business on the Property and make expenditures for all maintenance and improvements as in its judgment are proper;
- (2) Collect all rents, revenues, income, issues and profits from the Property and apply such sums to the expenses of use, operation and management;
- (3) At Lender's option, complete any construction in progress on the Property, and in that connection pay bills, borrow funds, mortgage or otherwise encumber the Property, employ contractors and make any changes in plans or specifications as Lender deems appropriate.

If the revenues produced by the Property are insufficient to pay expenses, the receiver may borrow, from Lender or otherwise, or Lender may borrow or advance such sums as Lender deems

necessary for the purposes stated in this paragraph, and repayment of such sums shall be secured by this Instrument. The amounts borrowed or advanced shall bear interest at the highest rate of interest then being paid on the Note from the date of expenditure until repaid and shall be payable by Borrower to Lender on demand.

b. With respect to any part of the Property that is personal property, Lender may exercise the rights and remedies of a secured party under the Uniform Commercial Code and under this Instrument.

In exercising the remedies provided for realizing on Property which is personal property, Lender may sell all or any part of the Property as a whole or in portions thereof. Lender may bid at any public sale on all or any portion of the Property. Lender shall give Borrower reasonable notice of the time and place of any public sale or of the time after which any private sale or other disposition of the Property is to be made, and notice given at least ten (10) days prior to the time of the sale or other disposition shall be conclusively presumed to be reasonable. A public sale conducted in the following fashion shall be conclusively presumed to be reasonable:

(1) Notice is given at least ten (10) days prior to the date of sale by publication once in a newspaper of general circulation published in the county in which the sale is to be held;

(2) The sale is held in a county in which the Property or any part is located or in a county in which Borrower has a place of business;

(3) Payment is required to be in cash or by certified check immediately following the close of the sale, except that if Lender bids Lender need not actually make payment;

(4) The sale is by auction, but it need not be by a professional auctioneer;

(5) The Property is sold as is and without any preparation for sale by Lender.

c. After giving Borrower notice of default in the manner prescribed by applicable law, if any, Lender may invoke the power of sale, commence judicial foreclosure, or exercise any other remedies permitted by applicable law or provided herein or in any Related Document or otherwise without notice. Borrower acknowledges that the power of sale granted herein and by Oregon law may be exercised by Lender without prior judicial hearing. Borrower has the right to bring an action to assert the non-existence of a breach or any other defense of Borrower to acceleration and sale.

If Lender invokes the power of sale, Lender shall give written notice to Trustee of the occurrence of an event of default and of Lender's election to cause the Property to be sold. Trustee and Lender shall give such notices as the laws of Oregon may require to Borrower and to such other persons as the laws of Oregon prescribe, and after the lapse of such time as may be required by applicable law, Trustee or its agent shall sell the Property according to the laws of Oregon. Trustee or its agent may sell the Property at the time and place and under the terms designated in the notice of sale in one or more parcels and in such order as Trustee or its agent may determine. Trustee or its agent may postpone sale of all or any parcel of the Property as permitted by law by public announcement at the time and place fixed in the notice of sale. Lender or Lender's designee may purchase the Property at any sale.

Trustee or its agent shall deliver to the purchaser a Trustee's deed conveying the Property so sold without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all costs and expenses of the sale, including, but not limited to, trustee's and attorney fees, publication fees, service fees and costs of title evidence; (b) to all sums secured by this Instrument in such order as Lender, in Lender's sole discretion, directs; and (c) the excess, if any, to the Clerk of the Court of the County in which the sale took place or to the person or persons legally entitled thereto.

Notwithstanding Lender's acceleration of the sums secured by this Instrument, Borrower shall have the right to have proceedings for foreclosure by advertisement and sale discontinued at any time permitted by law before the sale of the Property pursuant to the power of sale contained in this Instrument and applicable law if: (a) Borrower pays Lender all sums which would be then due under this Instrument, the Note and Notes securing Future Advances, if any, had no acceleration occurred; (b) Borrower cures all breaches of any other covenants or arrangements of Borrower contained in this Instrument; (c) Borrower pays all reasonable expenses incurred by Lender and Trustee in enforcing the covenants and agreements of Borrower contained in this Instrument and in enforcing Lender's and Trustee's remedies as provided herein, including but not limited to, reasonable trustee's and attorney fees; and (d) Borrower takes such action as Lender may reasonably require to assure that the lien of this Instrument, Lender's interest in the Property, and Borrower's obligation to pay the sums secured by this Instrument shall continue unimpaired. Upon such payment and cure by Borrower, this Instrument and the obligations secured hereby shall remain in full force and effect as if no acceleration had occurred.

This right to reinstate does not apply if Lender selects any remedy other than non-judicial foreclosure by advertisement and sale.

If Lender elects to commence judicial suit or action for the foreclosure of this Instrument, Borrower agrees to pay to Lender the costs of such suit or action and such reasonable sum for attorney fees as the court may allow, including those on appeal whether said suit or action be brought to a judgment or not, and also such further sums, if any, as Lender shall have paid for surveyor's reports or to procure an abstract of, or search of, the title to said Property subsequent to the execution of this Instrument. All moneys herein agreed to be paid shall be secured hereby. Borrower consents to a personal deficiency judgment for any part of the debt hereby secured which shall not be paid by the sale of the Property, unless such judgment is prohibited by law, and expressly waives (a) any claim of homestead and (b) all rights to possession of the premises during the period allowed by law for redemption.

32. Cross-Default Provision. In the event Borrower has entered or does in the future enter into any other loan agreement, deed of trust, mortgage or note payable to Lender, a default in the terms and provisions of the other loan agreement, note or instrument securing it shall constitute a default hereunder. Nothing in the preceding sentence shall in any way lessen or impair the rights of Lender with respect to this Instrument and the Note (or notes) which it secures. Lender, at its option, may separately enforce the provisions of any loan, note, or deed of trust or mortgage securing it. Default under each loan, note, or deed of trust or mortgage shall constitute a separate cause of action, and the institution of proceedings upon one, but not upon both or all, shall not be construed as a splitting of a cause of action by Lender or a waiver of any rights under any other loan, note, or deed of trust or mortgage.

33. Reconveyance. Upon payment of all sums secured by this Instrument, Lender shall require Trustee to reconvey the Property and shall surrender this Instrument and all notes evidencing indebtedness secured by this Instrument to Trustee. Trustee shall reconvey the Property without warranty to the person or persons legally entitled thereto. Such person or persons shall pay Trustee's reasonable costs incurred in so reconveying the Property.

34. Substitute Trustee. In accordance with applicable law, Lender may from time to time appoint a successor trustee to any trustee appointed hereunder who has ceased to act. Without conveyance of the Property, the successor trustee shall succeed to all the title, power, and duties conferred upon the Trustee herein and by applicable law.

35. Assignment/Participation. Lender reserves the right to assign or participate all or any part of its rights and obligations under this Instrument and any Related Documents. Upon assignment, if any, Lender shall be released from all liability hereunder. Borrower's right to transfer or assign is subject to limitations contained elsewhere in this Instrument. At any time during the loan term, Borrower shall deliver to Lender, at Lender's request, such further documents including, but not limited to, site assessments or studies, environmental audit reports and other consultants' studies and reports, as Lender may reasonably request for use in the sale of the loan, or any interest therein, by Lender. Lender shall have the right to provide any information on Borrower of the Property contained in Lender's files to any party contemplating the purchase of any interest in the loan.

36. Use of 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.

37. Future Advances. So long as this Instrument secures indebtedness held by Lender and upon request of Borrower, Lender, at Lender's sole option, may make future advances to Borrower. This Instrument shall secure all those future advances which specifically state they are secured hereby, and the lien of each such advance shall relate back to the date of this Instrument. This Instrument shall have the full force, effect, and benefits of a trust deed to secure future advance of money, if any, which specifically state they are secured hereby.

38. Purpose of Loan. The loan secured hereby is made, and all proceeds thereof will be used solely for commercial, investment or business purposes and not for personal, household, or family purposes.

39. Time of Essence. Time is of the essence of this Instrument.

40. Amendments Superior to Intervening Liens. Should any agreement be hereafter entered into modifying or changing the terms of this Instrument or the Note secured hereby in any particular, the rights of the parties to such agreement shall be superior to the rights of the holder of any intervening lien.

41. Attorney Fees. As used in this Instrument and in the Note, "attorney fees" shall include attorney fees, if any, which shall be incurred whether or not legal action is commenced and any such fees incurred at trial, arbitration, interpleader, bankruptcy, hearing or any judicial proceeding, and on appeal or review, and on any collection before or after judgment.

42. Prepayment. Borrower may prepay this indebtedness at any time.

43. Incorporation by Reference. All Related Documents are by this reference incorporated herein as if fully set forth.

44. Loan Agreement Provisions. Borrower agrees to comply with the covenants and conditions of the Loan Agreement, which is hereby incorporated by reference in and made a part of this Instrument. All advances made by Lender pursuant to the Loan Agreement shall be indebtedness of Borrower secured by this Instrument, and such advances are obligatory as provided in the Loan Agreement. All sums disbursed by Lender prior to completion of the improvements to protect the security of this Instrument shall be treated as disbursements pursuant to the Loan Agreement. All such sums shall bear interest from the date of disbursement at the applicable Note rate stated in the Note, unless collection from Borrower of interest at such rate would be contrary to applicable law in which event such amounts shall bear interest at the highest rate which may be collected from Borrower under applicable law and shall be payable upon notice from Lender to Borrower requesting payment therefor.

From time to time as Lender deems necessary to protect Lender's interests, Borrower shall, upon request of Lender, execute and deliver to Lender, in such form as Lender shall direct, assignments of any and all rights or claims which relate to the construction of the Property and which Borrower may have against any party supplying or who has supplied labor, materials or services in connection with construction of the Property. In case of breach by Borrower of the covenants and conditions of the Loan Agreement, Lender, at Lender's option, with or without entry upon the Property, (a) may invoke any of the rights or remedies provided in the Loan Agreement, or (b) may accelerate the sums secured by this Instrument, and Borrower shall not assert any right of setoff, counterclaim or other claim or defense arising out of or in connection with the Loan Agreement against the obligations of the Note and this Instrument.

45. Variable Rate Obligation. The obligation this Instrument secures may provide that the interest rate, payment terms, or balance due on the loan secured hereby may be indexed, adjusted, renewed, or renegotiated in accordance with the terms of the Note or Notes and on account of any extensions and renewals of the Note or Notes. The priority of this Instrument shall not be affected by renegotiation or adjustment of the initial interest rate provided in the Note upward or downward, which may increase or decrease the amounts of periodic payments or may extend or shorten the term of this obligation, or both. The priority of this Instrument also shall not be affected by an increase in the underlying obligation secured by this Instrument during any part of the term of this Instrument as a result of deferment of all or a portion of the interest or principal payments and the addition of such payments to the outstanding balance of the obligation. The priority of this Instrument also shall not be affected by the execution of new notes during the term of this Instrument which reflect changes made pursuant to any of the adjustments described in this paragraph or by any other changes which would not otherwise affect priority under Oregon law.

46. Multiple Parties. If there is more than one person comprising Borrower, the obligations imposed upon Borrower under this Instrument shall be joint and several. A breach or default by any one person comprising Borrower shall constitute a breach or default by Borrower. Each of the married persons comprising Borrower pledges his or her separate and community property interests and the community property interests of his or her respective spouse in the Property.

47. Maturity Date. The maturity date of the Note which this Instrument secures is May 1, 2008.

48. Non-foreign Certification. Section 1445 of the Internal Revenue Code of 1986, as amended (the "Internal Revenue Code") provides that a transferee of a U.S. real property interest must withhold tax if the transferors is a foreign person. To inform Lender that the withholding of tax will not be required in the event of the disposition of the Property or improvements pursuant to the terms of this Deed of Trust, Borrower hereby certifies, under penalty of perjury, that:

a. Borrower is not a foreign person, foreign corporation, foreign partnership, foreign trust or foreign estate, as those terms are defined in the Internal Revenue Code and the regulations promulgated thereunder;

b. Borrower's U.S. employer tax identification number is 93-0864094; and

c. Borrower's principal place of business is 1504 Oregon Avenue, Klamath Falls, Oregon 97601. It is understood that Lender may disclose the contents of this certification to the Internal Revenue Service and that any false statement contained herein could be punished by fine, imprisonment or both. Borrower covenants and agrees to execute such further certificates, which shall be signed under penalty of perjury, as Lender shall reasonably require. The covenant set forth herein shall survive the foreclosure of the lien of this Deed of Trust or acceptance of a deed in lien thereof.

49. Report of Real Estate Transaction. Borrower has made or provided for making, or will make or provide for making, on a timely basis, any reports or returns required under Section 6045(e) of the Internal Revenue Code of 1986 (and any similar reports or returns required by state or local law) relating to the Property, notwithstanding the fact that the primary reporting responsibility may fall on the Lender, counsel for the Lender, or other party. Borrower's obligations under this paragraph will be deemed to be satisfied if proper and timely reports and returns required under this paragraph are filed by a title company or real estate broker involved in the real estate transaction relating to the Property, but nothing contained herein shall be construed to require such returns or reports to be filed by Lender or counsel for Lender.

50. Partial Releases. Upon not less than ten (10) days' prior written notice from Borrower, Lender shall request a partial reconveyance from the lien of this Instrument to certain lots of the Property on the following terms and conditions:

- a. There exist no defaults under the Note, this Deed of Trust or Related Documents or any other security for the Note at the time the partial reconveyance is requested or is to be recorded; provided, however, no consent to any partial reconveyance shall constitute a waiver of any default or of any condition herein to any future reconveyance;
- b. The approved subdivision plat for the Property has been properly recorded;
- c. Borrower has provided Lender with evidence confirming that the lots being reconveyed and the lots remaining encumbered by this Deed of Trust following the reconveyance comply with all applicable site plan, subdivision and platting requirements;
- d. Construction of all improvements on the particular lot to be released must be completed to the satisfaction of Lender;
- e. Borrower's request for partial reconveyance must give the legal description of the particular lot to be released, and must request the Lender to deposit with the title insurance company its authorization for the partial reconveyance and its demand for payment;
- f. The lots remaining encumbered by this Deed of Trust following the reconveyance have adequate access to all right-of-way and utilities;
- g. The partial reconveyance will not result in any encroachment or breach any zoning law, ordinance or restrictive covenant;
- h. Lender's receipt of written consent to the partial reconveyance from any guarantors of the Note;
- i. Lender's receipt of an endorsement to its title insurance policy insuring the continuing validity and priority of this Deed of Trust following the partial reconveyance;
- j. Lender's receipt of the release price of Twenty Five Thousand Five Hundred Eighteen and No/100 Dollars (\$25,518.00) for each lot to be released which Lender shall apply to the principal amounts owing under the Note, plus a Lot Release Fee of \$50.00 per reconveyance, which is a fee to Lender and does not reduce the loan balance. Borrower must also pay any Trustee's fees for the partial reconveyance;
- k. Lender's receipt of payment of all Lender's costs and fees incurred in connection with such partial reconveyance request.

51. Statute of Frauds.

UNDER OREGON LAW MOST AGREEMENTS, PROMISES AND COMMITMENTS MADE BY STERLING SAVINGS BANK, AFTER OCTOBER 3, 1989, CONCERNING LOANS AND OTHER CREDIT EXTENSIONS WHICH ARE NOT FOR PERSONAL, FAMILY OR HOUSEHOLD PURPOSES OR SECURED SOLELY BY THE BORROWER'S RESIDENCE, MUST BE IN WRITING, EXPRESS CONSIDERATION AND BE SIGNED BY STERLING SAVINGS BANK, TO BE ENFORCEABLE.

WARNING

Unless you provide us with evidence of the insurance coverage as required by our contract or loan agreement, we may purchase insurance at your expense to protect our interest. This insurance may, but need not, also protect your interest. If the collateral becomes damaged, the coverage we purchase may not pay any claim you make or any claim made against you. You may later cancel this coverage by providing evidence that you have obtained property coverage elsewhere.

You are responsible for the cost of any insurance purchased by us. The cost of this insurance may be added to your contract or loan balance. If the cost is added to your contract or loan balance, the interest rate on the underlying contract or loan will apply to this added amount. The effective date of coverage may be the date your prior coverage lapsed or the date you failed to provide proof of coverage.

The coverage we purchase may be considerably more expensive than insurance you can obtain on your own and may not satisfy any need for property damage coverage or any mandatory liability insurance requirements imposed by applicable law.

IN WITNESS WHEREOF, Borrower has executed this Instrument or has caused the same to be executed by its duly authorized representatives.

Borrower:

MONTI'S CONSTRUCTION, INCORPORATED,
an Oregon corporation

By: [Signature]
Martin I. Monti, President

STATE OF OREGON)
) ss.
County of Klamath)

This instrument was acknowledged before me on May 11, 2005, by Martin I. Monti as President of Monti's Construction, Incorporated.



[Signature]
NOTARY PUBLIC FOR OREGON
My Commission Expires 3/10/09

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 are hereby directed, on payment to you of any sums owing to you under the terms of said trust and 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

_____ at the address noted for Borrower immediately above.

DATED: _____, _____.

Beneficiary

EXHIBIT 1

1. The Property lies within the boundaries of the Klamath Irrigation District and is subject to the levies and assessments thereof.
2. The Property lies within the boundaries of the Klamath County Drainage Service District and is subject to the levies and assessments thereof.
3. Easements as delineated on the recorded plat for 60-foot wide access easement.
4. Limited access in deed to Klamath County, a political subdivision of the State of Oregon recorded March 15, 1978, Book M-78, page 4936.
5. Limited access in deed to Klamath County, a political subdivision of the State of Oregon recorded January 17, 1990, Book M-90, Page 1162.