

-- MORTGAGE --

THIS MORTGAGE, Made this 20 th day of November, 1980, by SHIELD CREST, INC., an Oregon corporation, MORTGAGOR, to J. BRUCE OWENS, E. MARIE OWENS, ROBERT E. CHEYNE and HELEN J. CHEYNE, Mortgagees,

W I T N E S S E T H:

In consideration of the sum of Five Hundred Twenty-Nine Thousand One Hundred Fifteen & 47/100ths (\$529,115.47) DOLLARS, Mortgagor hereby grants, bargains, sells and conveys unto Mortgagees, those certain premises described in "Exhibit A" attached hereto, together with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining, under the following terms and conditions:

THE OBLIGATION: Mortgagor shall pay to Mortgagees the sum of \$529,115.47, together with interest at 8% per annum from November 20, 1980, until paid. Mortgagor shall make minimum annual payments of not less than \$50,000.00. The first \$250,000.00 paid by Mortgagor shall be applied to the principal, and the interest thereon shall be deferred. Any prepayments by Mortgagor shall excuse the following annual payment requirements to the extent of such prepayment.

FURTHER PAYMENT: Mortgagor shall also pay all taxes, assessments and other charges of every nature which may be levied or assessed against the property when due and payable, according to law, and before the same become delinquent, and will promptly pay and satisfy any mechanics liens or other liens or assessments that might, by operation of law, become a lien upon the mortgaged premises superior to the lien of this mortgage, and will deliver all receipts therefor to the Mortgagees.

SUBDIVISION: It is understood and agreed by Mortgagees that Mortgagor intends to subdivide the above-mentioned property and has obtained a commitment from Klamath First Federal Savings & Loan Association for said improvements. Mortgagees agree to subordinate this mortgage to the mortgage for said improvements. In the event Mortgagor obtains such a mortgage, proceeds of sales of lots of the subdivided property shall be applied first to the developmental mortgage.

LOT RELEASES: Mortgagees have executed and agree to deliver to Klamath County Title Company, 422 Main Street, Klamath Falls, Oregon, as Escrow Agent, partial releases to be delivered to the Mortgagor upon the following terms and conditions:

(a) The Mortgagor shall first pay all costs of sale, including attorney fees, title insurance, sales commissions, and the ordinary pro-rates of a sale.

(b) Mortgagor shall pay any amounts due for lot releases required by Klamath First Federal Savings and Loan Association under the developmental mortgage to be obtained by the Mortgagor.

1. MORTGAGE

(c) The Mortgagor shall pay any payments as they become due under the mortgage on a portion of said above-described property from mortgagees to Mildred Cunningham and William Cunningham, said William Cunningham now being deceased and said Mildred Cunningham now being Mildred Bergen, which mortgage has been assumed by Mortgagor.

(d) As long as there is an unpaid balance under this mortgage, the mortgagor shall apply the entire balance of the proceeds from said sales to third parties to this mortgage after payment of the above-mentioned items.

DEVELOPMENT AND SUBORDINATION: As stated, Mortgagor intends to subdivide the subject property, or a portion thereof, and in that respect will incur costs for engineering, construction of utilities and roads and costs of platting, and obtain a mortgage from Klamath First Federal Savings & Loan Association to pay for said development. Mortgagees herein shall have no personal liability upon said mortgage to finance said improvements.

PURCHASE MONEY MORTGAGE: It is expressly understood by the parties hereto that this is a purchase money mortgage.

DEFAULT: Mortgagor shall not be deemed in default for failure to perform any covenant or condition of this Agreement until notice of said default has been given by Mortgagees to the Mortgagor, and Mortgagor shall have failed to remedy said default within ten (10) days after the giving of notice if the default is the failure to pay the annual installments and within thirty days after the giving of notice in the event of any default hereunder other than the failure to pay the annual installments. Notice for this purpose shall be deemed to have been given by the deposit in the mails of a certified or registered letter containing said notice and addressed to Mortgagor. In the event the default is of such nature that it cannot be completely remedied within a thirty day period, Mortgagor shall not be considered to be in default if Mortgagor begins correcting the claimed default with diligence and in good faith and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as possible.

ATTORNEY'S FEES: In case litigation is instituted arising directly or indirectly out of this Agreement, the losing party shall pay to the prevailing party its reasonable attorney's fees. If an appeal is taken from any judgment or decree of the trial court, the losing party shall pay the prevailing party in the appeal their reasonable attorney's fees in such appeal.

TAXES: Mortgagor shall pay, when due, all taxes which are hereafter levied against the property and all public, municipal and statutory liens which may be hereafter lawfully imposed upon the property. Upon request, the Mortgagor shall furnish Mortgagees with evidence of payment of all property taxes as and when due and payable.

MECHANICS' LIENS: Mortgagor shall keep the property free from mechanics' and all other liens and save Mortgagees harmless therefrom and reimburse Mortgagees for all costs and attorney's fees incurred by Mortgagees in defending against any such liens.

Mortgagor warrants that the proceeds of the loan represented by this mortgage are for business or commercial purposes other than agricultural purposes.

2. MORTGAGE

24025

NOW, THEREFORE, if Mortgagor shall keep and perform the covenants herein contained and shall pay this mortgage according to its terms, this conveyance shall be void, but otherwise shall remain in full force as a mortgage to secure the performance of all of said covenants, it being agreed that a failure to perform any covenant herein, or if a proceeding of any kind be taken to foreclose any lien on said premises, or any part thereof, Mortgagees shall have the option to declare the whole amount unpaid hereon at once due and payable, and this mortgage may be foreclosed at any time thereafter. And if Mortgagor shall fail to pay any taxes or charges or any lien, encumbrance or insurance premium as above provided for, Mortgagees may, at their option do so, and any payments so made shall be added to and become a part of the debt secured by this mortgage, and shall bear interest at the rate above provided without waiver, however, of any right arising to the Mortgagees for breach of covenant. And this mortgage may be foreclosed for principal, interest and all sums paid by Mortgagees at any time while Mortgagor neglects to repay any sums so paid by Mortgagees. In the event of any suit or action being instituted to foreclose this mortgage, Mortgagor agrees to pay all reasonable costs incurred by Mortgagees for title reports and title search, all statutory costs and disbursements and such further sum as the trial court may adjudge reasonable as plaintiffs' attorney's fees in such suit or action, and if an appeal is taken from any judgment or decree rendered therein Mortgagor further promises to pay such sum as the appellate court shall adjudge reasonable as plaintiffs' attorney's fees on such appeal, all sums to be secured by the lien of this mortgage and included in the decree of foreclosure.

Each and all of the covenants and agreements herein contained shall apply to and bind the heirs, executors, personal representatives, assigns and/or successors of the Mortgagor and the Mortgagees, respectively.

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

In witness whereof, said Mortgagor has hereunto set its hand and seal the day and year first above written.

SHIELD CREST, INC.

BY: E. Marie Owens President

BY: Robert E. Cheyne Secretary

STATE OF OREGON)

County of Klamath)

SS November 20, 1980

Personally appeared E. MARIE OWENS, who, being sworn, stated she is the President, and ROBERT E. CHEYNE, who being sworn, stated he is Secretary, of SHIELD CREST, INC., and that said instrument was signed in behalf of the corporation by authority of its Board of Directors, and they acknowledged said instrument to be its voluntary act and deed.

Before me:

William P. Brandsness
Notary Public for Oregon

My Commission expires: 9-10-81

24026

"EXHIBIT A"

SE1/4 SW1/4 and the SW1/4 SW1/4 of Section 5, Township 39 S.R. 10 E.W.M., SAVING AND EXCEPTING from the said SW1/4 SW1/4 that portion thereof conveyed by W. P. McMillan, et ux, to Jay J. Arant by deed dated June 6, 1910, recorded June 6, 1910, Deed Book 31 at page 98, Records of Klamath County, Oregon, as follows: All that portion of the SW1/4 SW1/4 of Section 5 lying Westerly of public road in Section 5, Township 39 South, Range 10 E.W.M.

That portion of the NE1/4 NE1/4 of Section 7 and of NW1/4 NW1/4 of Section 8 which lies Northeasterly of the following-described line: Beginning at a point 7.5 feet West of the corner common to Sections 5, 6, 7 and 8, Twp. 39 S.R. 10 E.W.M.; thence South 26°39' E. 16.7 feet to a point on the line of said Secs. 7 and 8 which point is 15 feet South of the corner common to said Secs. 5, 6, 7 and 8; thence continuing South 26°39' E. 1344.3 feet, more or less, to a point on the South line of said NW1/4 NW1/4 of said Sec. 8 which is 665 feet, more or less, East from the SW corner of said NW1/4 NW1/4 of said Section 8.

The E1/2 NW1/4 and that portion of NE1/4 SW1/4 of Sec. 8, Twp. 39 S.R. 10 E.W.M., lying North of the Klamath Falls-Lakeview Highway, SAVING AND EXCEPTING from said portion of NE1/4 SW1/4 that portion thereof conveyed to School District No. 11 by a deed acknowledged February 5, 1910, recorded February 26, 1910, in Deed Book 28 at page 338, and NW1/4 NW1/4 of Sec. 8, Twp. 39 S. R. 10 E.W.M..

A portion of which above-described property is also described as Tract 1172 SHIELD CREST, a platted subdivision, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record at request of Klamath County Title Co.

on 11th day of December A. D. 1980 at 2:38 o'clock P. M., and

fully recorded in Vol. M80, of Mortgages on Page 24023

Wm D. MILNE, County Clerk

By Bernetha J. Hetch

Fee \$14.00