

THIS ASSIGNMENT OF Trust Deed made this 28th day of March 1989, by FLOYD E. BURKS and PAMELA L. BURKS, ASSIGNORS-DEBTORS, to DONALD S. FORKES and MARY E. FORKES, who further assign to DONALD S. FORKES and MARY E. FORKES, co-trustee's of the DONALD S. FORKES and MARY E. FORKES TRUST of July 1, 1988 at Bend, Oregon, ASSIGNEE-SECURED PARTY.

## W I T N E S S E T H :

That the Assignors in consideration of \$20,000.00 to them paid by the Assignees, do hereby grant, bargain, sell, assign and set over unto the Assignees, all of the Assignors' right, title and interest, including the right to receive payments in and to that certain Note and Trust Deed dated October 10, 1980, between WILLIAM M. GANONG and MARIE I GANONG husband and wife as Grantor, and S FRANZ WOGAN and MARILYN M. WOGAN husband and wife, as Beneficiary, said Trust Deed being recorded October 13, 1980 in M80, Page 19871. The Beneficiary's interest in said Trust Deed assigned of record to FLOYD E. BURKS and PAMELA L. BURKS on February 27, 1987 and recorded March 4, 1987 in M 87, Page 3428, Deed records of Klamath County, Oregon, together with all of Assignors' right, title and interest in and to the real estate described therein, the collateral herein, to wit:

PARCEL 1: A tract of land situated in the SW<sup>1</sup>/<sub>4</sub> of Section 32, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, and being more particularly described as follows:

Beginning at a chiseled cross on a stone monument buried in the ground, said stone being North 41° East a distance of 1094 feet, more or less, by record from the one-fourth corner common to Sections 31 and 32, Township 38 South, Range 9, E.W.M.; thence South 52°00'00" East along the Northerly line of the Barnhisel property 19.00 feet to a one-half inch iron pin, said point being the True Point of Beginning of this description; thence continuing South 52°00'00" East 191.65 feet; thence South 69°39' West 52.37 feet; thence South 47°31'00" West 49.10 feet; thence North 06°16'20" West 32.80 feet; thence North 37°51'20" West 114.87 feet; thence North 26°26'30" West 30.84 feet; thence North 50°08'40" East 28.79 feet to the True Point of Beginning, containing 10,095 square feet, with bearings based on recorded Surveys Numbered 1276, 2007 and 2126.

PARCEL 2: An undivided one-third interest in an existing private road right-of-way situated in the SW<sup>1</sup>/<sub>4</sub> of Section 32, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, and being more particularly described as follows:

Beginning at a chiseled cross on a stone monument buried in the ground, said stone being North 41° East a distance of 1094 feet, more or less, by record from the one-fourth corner common to Sections 31 and 32, Township 38 South, Range 9 East of the Willamette Meridian, thence South 37°29'10" East a distance of 206.81 feet, said point being the True Point of Beginning of this description; thence South 47°31' West 230.92 feet; thence North 42°29' West 18.00 feet; thence North 47°31' East 235.25 feet; thence North 69°39' East 52.37 feet; thence South 52°00' East along said line 28.00 feet; thence South 74°34' West 64.53 feet to the true point of beginning; with the bearings of the above description based on recorded Surveys Numbered 1276, 2007 and 2126.

SUBJECT TO: The provision contained in that certain Agreement, dated June 18, 1974, between Howard Barnhisel and Maybelle E. Barnhisel, husband and wife, and Harry D. Boivin and Vivian M. Boivin, husband and wife, that said private road right-of-way shall be appurtenant to the real property then owned by said Howard Barnhisel and Maybelle E. Barnhisel, which said real property is more particularly described as Parcel 1 and Parcel 2 in Deed from Howard Barnhisel and Maybelle E. Barnhisel, husband and wife, to the California Oregon Power Company, dated May 16, 1947, and recorded May 22, 1947, in Deed Vol. 206, page 429, Records of Klamath County, Oregon, and that the cost of maintenance of said driveway shall be shared equally between the owners of the property adjacent to said driveway and that the use of said driveway shall not be impaired by any of the parties, their heirs and assigns, and that no portion of said driveway shall be used for the parking of trailers, boats or recreational vehicles of any kind.

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1 PARCEL 3: An undivided one-third interest in and to the two tracts of 5388  
2 common ground more particularly described as follows: 3836

3 The Swimming Pool Tract described as follows:

4 A tract of land situated in the SW $\frac{1}{4}$  of Section 32, Township 38 South,  
5 Range 9 East of the Willamette Meridian, Klamath County, Oregon, and  
6 being more particularly described as follows:

7 Beginning at a chiseled cross on a stone monument buried in the ground,  
8 said stone being North 41° East a distance of 1094 feet, more or less, by  
9 record from the one-fourth corner common to Sections 31 and 32, Township  
10 38 South, Range 9 East of the Willamette Meridian; thence South 52°00'00"  
11 East along the Northerly line of the Barnhisel property 12.00 feet;  
12 thence South 50°08'40" West 28.79 feet; thence South 26°26'30" East  
13 30.84 feet, thence South 37°51'20" East 42.04 feet; said point being the  
14 True Point of Beginning of this description; thence continuing South  
15 37°51'20" East 72.83 feet; thence South 06°16'20" East 32.80 feet: on  
16 the Northwesterly line of that easement recorded in Deed Volume 206,  
17 page 429, and Deed Volume 328, page 538, as recorded in the Klamath  
18 County Deed Records; thence South 47°31'00" West along said easement  
19 line 89.33 feet; thence North 33°32'00" West 79.97 feet; thence North  
20 56°33'30" East 60.78 feet; thence North 37°51'20" West 32.92 feet;  
21 thence North 52°08'40" East 39.60 feet to the True Point of Beginning,  
22 containing 8,522 square feet, with bearings based on recorded Surveys  
23 Numbered 1276, 2007 and 2126; and

24 The Tennis Court Tract described as follows:

25 A tract of land situated in the SW $\frac{1}{4}$  of Section 32, Township 38 South,  
26 Range 9 East of the Willamette Meridian, Klamath County, Oregon, and  
27 being more particularly described as follows:

28 Beginning at a chiseled cross on a stone monument buried in the ground,  
29 said stone being North 41° East a distance of 1094 feet, more or less, by  
30 record from the one-fourth corner common to Sections 31 and 32, Township  
31 38 South, Range 9 East of the Willamette Meridian; thence South 37°29'10"  
32 East a distance of 206.81 feet; to a one-half inch iron pipe set in con-  
33 crete on the Southerly edge of the Barnhisel entrance road; thence South  
34 47°31'00" West 267.92 feet; thence North 46°43'00" West 75.00 feet;  
35 thence North 34°31'00" West 45.78 feet to a one-half inch iron pin; said  
36 point being the True Point of Beginning of this description; thence con-  
37 tinuing North 34°31'00" West 180.33 feet; thence North 56°02'30" East  
38 67.01 feet; thence South 33°59'09" East 180.91 feet; thence South 56°33'  
39 30" West 65.34 feet to the True Point of Beginning, containing 11,952  
40 square feet, together with any land lying between the Northeasterly bank  
41 of Link River and the Southwesterly side of the above-described tract of  
42 land, with bearings based on recorded Surveys Numbered 1276, 2007 and 2126.

43 TOGETHER WITH a 6-foot wide easement connecting tennis court and swimming  
44 pool tracts for the exclusive use of owners of common ground and their  
45 guests situated in the SW $\frac{1}{4}$  of Section 32, Township 38 South, Range 9  
46 East of the Willamette Meridian, Klamath County, Oregon, and being more  
47 particularly described as follows:

48 Beginning at a chiseled cross on a stone monument buried in the ground,  
49 said stone being North 41° East a distance of 1094 feet, more or less, by  
50 record from the one-fourth corner common to Sections 31 and 32, Township  
51 38 South, Range 9 East of the Willamette Meridian; thence South 37°29'10"  
52 East a distance of 206.81 feet; thence South 47°31'00" West 267.92 feet;  
53 thence North 46°43'00" West 75.00 feet; said point being the True Point  
54 of Beginning of this description, said easement to be six feet in width,  
55 and on the right side of the following described line; thence North 34°31'  
56 00" West 45.78 feet; thence North 56°33'30" East 147.27 feet; together  
57 with any land lying between the Northeasterly bank of Link River and the  
58 Southwesterly side of the above-described easement, with bearings based  
59 on Surveys Numbered 1276, 2007 and 2126.

60 TOGETHER WITH a perpetual, non-exclusive easement in the existing "Joint  
61 Usage" cast iron sewer line to provide sewage service from said Parcel 1  
62 to the City of Klamath Falls sewer line, which runs along the East Bank  
63 of Link River. Said easement is two feet wide, being one foot on each  
64 side of a center line described as follows: Beginning at a point on the  
65 Southeasterly Boundary of said Parcel 1, which is North 05°20" West along  
66 said Southeasterly Boundary of said Parcel 1 a distance of 29.0 feet, more  
67 or less, from the most Southerly corner of said Parcel 1; thence, South  
68 52°30' West, a distance of 252.0 feet, more or less, to its intersection  
69 with said City Sewer Line near the East Bank of Link River, together with  
70 right of ingress and egress to said "Joint Usage" sewer line for the pur-  
71 pose of maintaining, repairing and replacing the same as needed reserving  
72 unto the landowners across whose land said easement crosses a like, per-  
73 petual easement in said "Joint Usage" sewer line.

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TOGETHER WITH a perpetual non-exclusive easement to discharge and drain clean well water from Vendees' well on said Parcel 1 into the existing spring, lily pond and swimming pool drain pipe which runs parallel to the Southwesterly Boundary of said Parcel 1 across said Parcels 2 and 3.

TOGETHER WITH a perpetual, non-exclusive easement to and right to use the existing irrigation system to irrigate said Parcels 1 and 3, but reserving unto the Grantors and other adjacent Landowners, whose premises are also irrigated by said existing irrigation system, a like perpetual easement and right to use said existing irrigation system to irrigate their said lands, and the Vendees, their heirs, grantees and assigns covenant and agree to pay their pro-rata share of the cost of maintaining, repairing and replacing said irrigation system as needed.

RESERVING UNTO GRANTORS, their heirs, grantees and assigns, a perpetual easement across said Parcel 1 from the Oregon Water Company water line in Conger Avenue to Grantors' premises adjoining Parcel 1 for domestic water and meters as the same are now located, said easement to be forever appurtenant to and for the benefit of Grantors' said adjoining premises as the same now are or may hereafter be subdivided, together with right of ingress and egress for the purpose of maintaining, repairing or replacing said water line and meters.

RESERVING UNTO GRANTORS, their heirs, grantees and assigns, a perpetual non-exclusive easement to be forever appurtenant to and for the benefit of Grantors' said adjoining premises, as the same now are or may hereafter be subdivided, in the existing spring, lily pond and swimming pool drain pipe which runs across Parcels 2 and 3.

RESERVING UNTO GRANTORS, their heirs, grantees and assigns, a perpetual easement for a sewer line across the Tennis Court Tract of Parcel 3 from Grantors' remaining premises to the City of Klamath Falls sewer line which runs along the East Bank of Link River to provide sewage service for and to be forever appurtenant to the Grantors' said remaining premises as the same now are or may hereafter be subdivided, together with right of ingress and egress to said sewer line for the purpose of maintaining, repairing and replacing the same as needed. The description of said sewer line being a four-foot strip with the center line being described as follows: Beginning at a point on the Northeasterly boundary of Tennis Court Tract (Parcel 3) which is South 33°59'09" East 34.00 feet from the most Northerly corner of said Tennis Court Tract; thence Southwesterly to a point on the Southwesterly boundary of Tennis Court Tract which is South 34°31' West 31.8 feet from the most Westerly corner of said Tennis Court Tract.

SUBJECT TO:

1. Taxes for 1975-76 now a lien but not yet payable.
2. Easement and Agreement for pipe line and irrigation, including the terms and provisions thereof, given by Fred Heilbronner, et al., to The California Oregon Power Company, a corporation, dated March 21, 1925, recorded April 25, 1925, in Vol. 65, page 512, Deed Records of Klamath County, Oregon. (Affects Parcels 1, 2 and 3)
3. Release of water rights and easement for roadway, including the terms and provisions thereof, given by Howard Barnhisel and Maybelle E. Barnhisel, husband and wife, to The California Oregon Power Company, a California Corporation, dated May 16, 1947, recorded May 22, 1947, Vol. 206, page 429, Deed Records of Klamath County, Oregon. (Affects Parcels 1, 2 and 3)
4. Easement regarding water line, electric power line, domestic water system, including the terms and provisions thereof, in deed from The California Oregon Power Company, a corporation, to Howard Barnhisel and Maybelle E. Barnhisel, husband and wife, dated April 30, 1947, recorded May 27, 1947, Deed Vol. 207, page 7, Records of Klamath County, Oregon. (Affects Parcel 2 only)
5. Easement for road purposes on and over the Barnhisel Entrance Road, including the terms and provisions thereof, dated September 11, 1947, recorded September 12, 1947, Vol. 211, page 261, Deed Records of Klamath County, Oregon. (Affects Parcel 2 only)
6. Easement and right of way to construct, maintain and repair sewer, including the terms and provisions thereof, given by Howard Barnhisel and Maybelle E. Barnhisel, husband and wife, to the City of Klamath Falls, Oregon, dated October 31, 1960, recorded April 14, 1961, Vol. 328, page 538, Deed Records of Klamath County, Oregon. (Affects Parcel 2 only)

- 17 7. Agreement and conveyance, including the terms and provisions thereof, 5390  
18 to establish boundary lines, dated June 10, 1968, recorded June 18,  
19 1968, Vol. M68, page 5385, Deed Records of Klamath County, Oregon. 3838  
20 (Affects Parcel 2 only)  
21 8. Agreement, dated July 21, 1975, between Howard Barnhisel and Maybelle  
E. Barnhisel, husband and wife, David C. Elliott and Eloise J. Elliott,  
husband and wife, and S. Franz Wogan and Marilyn M. Wogan, husband and  
wife, concerning and restricting the use of Parcels 1, 2 and 3;

TO HAVE AND TO HOLD the said Trust Deed and premises with all appurtenances unto the Assignees, their heirs, successors, administrators and assigns forever subject to the following terms and conditions:

This Assignment is intended to secure the payment of a promissory note dated March 3, 1987, in the amount of \$20,000.00 made by the Assignors to Assignees.

Assignors expressly covenant and warrant to the Assignees that they are the owners of the Beneficiaries interest in said Trust Deed, and that they have the right to make this assignment.

Assignors further covenant and warrant that they will pay said note with interest according to the terms thereof; that while any part of said note remains unpaid, they will promptly and faithfully perform all of the terms and conditions of said Trust Deed.

NOW THEREFORE, if said Assignors shall keep and perform the covenants herein contained, and shall pay said note according to its terms, this assignment shall be void; but otherwise shall remain in force to secure the performance of all said covenants and the payment of said note; it being agreed that a failure to perform any covenant herein, the Assignees shall have the option to declare the whole amount unpaid on said note or on this Assignment at once due and payable, and this Assignment may be acted upon at any time thereafter.

In the event of any default by the Assignors, the Assignees shall have all rights and remedies provided by law, including specific performance of said assignment, and in addition the assignors will peaceably surrender said premises or said contract to the Assignees upon written demand therefor, and execute any and all appropriate documents required.

All remedies of the Assignees shall be cumulative. Assignees may sell the Seller's interest in the collateral at public or private sale and Assignees may purchase at said sale. If the Assignees' realization on the proceeds of the collateral obligation hereunder, exceeds the sums due to the Assignees on Assignors obligations hereunder, including costs of the sale, the Assignors shall be entitled to the surplus; otherwise, Assignors shall remain liable to Assignees for any deficiency.

In the event of any suit or action being instituted to enforce this Assignment, Assignors agree to pay all reasonable costs incurred by Assignee for title reports, and all statutory costs and disbursements, and reasonable attorney fees in the trial or appellate courts, and all such sums to be secured by the lien of this assignment 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, administrators and assigns of said Assignors and Assignees respectfully.

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IN WITNESS WHEREOF, the parties hereto have executed this Assignment the day and year first above written.

Floyd E. Burks  
FLOYD E. BURKS

Pamela L. Burks  
PAMELA L. BURKS

STATE OF OREGON )

) SS

COUNTY OF DESCHUTES )

The foregoing instrument was acknowledged before me  
March 28, 1989, by FLOYD E. BURKS and PAMELA L. BURKS

Jeanne A. Nickson  
Notary Public for Oregon  
My Commission expires: 7-16-91

Return to: Oregon Equity Attn Floyd E. Burks  
P.O. Box 5846  
Bend, Oregon 97708

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County Title Co. the 31st day  
of March A.D., 19 89 at 10:53 o'clock A. M., and duly recorded in Vol. M89,  
of Mortgages on Page 5387.

FEE \$28.00

Evelyn Biehn County Clerk

By Pauline Millendore