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AGREEMENT

THIS AGREEMENT is made by and between CAMERON F. WOGAN, hereinafter called "Wogan" and GORDON MALCOMB, hereinafter referred to as "Malcomb".

WHEREAS, WOGAN is the fee simple owner of the real estate in Klamath County, Oregon, described as: Lot 10 BLOCK 40, HILLSIDE ADDITION, Klamath County, Oregon; and MALCOMB is the fee simple owner of the real estate in Klamath County, Oregon described as: Lot 9, Block 40, HILLSIDE ADDITION, Klamath County, Oregon.

WHEREAS, The parties wish to enter into a well agreement which will benefit both parcels; and

The following is declared and agreed to be restrictions and benefits on the title to both parcels and to run with the land:

1. Status Quo.

There now exists a domestic hot water well on the parcel owned by MALCOMB. That well is currently used to heat a dwelling on the lot belonging to WOGAN. There is no use of the well at this time by MALCOMB but the parties intend that the right for such use shall be reserved as set forth herein.

2. Easement.

A mutual, perpetual, and appurtenant easement is granted and created for the use of said well, well casing, and plumbing for the mutual benefit of both parcels. MALCOMB grants to WOGAN an easement across MALCOMB's parcel for purposes of water delivery to the well and for the purposes of reasonable maintenance and upkeep to such lines.

3. Separate Property

All plumbing from the well head to the parties' point of use shall be the property of the party utilizing said plumbing.

4. Maintenance

The costs of maintenance of the well, well casing, and plumbing shall be shared equally by each of the parties. Each party shall be responsible for maintenance or construction of water delivery lines to each party's respective parcel from the well head. Any costs and inconveniences to one party as a result of the other parties' construction or maintenance of

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their separate water lines shall be paid by the party performing the construction or maintenance. Lack of well service alone for one (1) day shall not be considered a cost or inconvenience.

If improvements or maintenance to the well is required to enable the well to heat a dwelling on the lot owned by MALCOMB and to continue provide the reasonably adequate heating requirements for the dwelling on the lot owned by WOGAN and such improvements or maintenance are required solely due to the dwelling constructed by MALCOMB and its additional heating demands, then MALCOMB alone shall be responsible for the cost of such improvements or maintenance.

Neither party shall construct any improvements above or around the well or water lines of the other party which increases the cost of maintenance. If either party constructs any such improvements or otherwise increases the costs of maintenance to the well or the other party's water lines, then that party alone shall bear such increased costs.

5. Use

The well is intended for heating domestic dwellings and for heating the reasonable hot water demands for residences. Maintenance shall be required if necessary for the well to perform said function for residences located on one or both parcels.

This agreement is not intended to allow either party to use the well for uses other than as set forth in this section unless the parties later consent to that use; consent shall not be unreasonably withheld.

6. Dispute Resolution

In the event of dispute herein or in the event that any of the parties determine that the above maintenance and pumping charges are inequitable, water delivery shall continue pending resolution of such dispute by arbitration as described in the following paragraph.

In the event that a dispute arises as regards the subject matter of this agreement, the parties agree to submit to arbitration where each party appoints one arbitrator and those two arbitrators choose a third. The three arbitrators shall decide the resolution of said dispute, and the parties shall be bound thereby. The costs of arbitration shall be borne equally by the parties.

7. Successors

This agreement shall bind and inure to the benefit of, as circumstances may require, not only the immediate parties hereto but their respective heirs, personal representatives, successors in interest and assigns as well.

8. Attorney's Fees

Recognizing that disputes should be resolved by arbitration, if suit or action is instituted to enforce any of the provisions of this Contract, the party prevailing therein shall be entitled to recover from the other such sum as the Court may adjudge reasonable as attorney's fees therein, including any appeal thereof.

9. Modifications

Withdrawal of the rights and obligations of the respective premises or the inclusion of additional premises shall be effective only upon written consent of all parties to this Agreement and upon such terms that are mutually agreeable.

IN WITNESS WHEREOF, the parties have hereunto set their hands this 2nd day of FEBRUARY, 1990.

Gordon Malcomb
GORDON MALCOMB

Cameron F. Wogan
CAMERON F. WOGAN

STATE OF OREGON, County of Klamath) ss.

On this 2nd day of FEBRUARY, 1990, personally appeared before me the above-named CAMERON F. WOGAN, and acknowledged the above to be their voluntary act and deed.

David D. Chandler
NOTARY PUBLIC FOR OREGON
My Commission Expires: 7-6-90

STATE OF OREGON, County of Klamath) ss.

On this 2nd day of FEBRUARY, 1990, personally appeared before me the above-named Gordon Malcomb, and acknowledged the above to be their voluntary act and deed.

David D. Chandler
NOTARY PUBLIC FOR OREGON
My Commission Expires: 7-6-90

AFTER RECORDING RETURN TO:
KLAMATH FIRST FEDERAL S&L
540 MAIN ST.
KLAMATH FALLS, OR 97601

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Mountain Title Co. the 2nd day of Feb. A.D., 19 90 at 3:26 o'clock P M., and duly recorded in Vol. M90 of Deeds on Page 2388.

FEE \$38.00

Evelyn Biehn . County Clerk

By Doreen Mulenders