

17981

MTC 23934

Vol. 7190 Page 14711

TRUST DEED

THIS TRUST DEED is made this 14th day of July, 1990, between ROBIN N. CHESTER and SANDRA K. CHESTER, as Grantor, MOUNTAIN TITLE COMPANY OF KLAMATH COUNTY, as Trustee, and DOLORES H. ENGLE, CLARK L. ENGLE, KAY L. VESTAL and JEANNE M. ELWOOD, Co-Trustees of the Revocable Trust of Dolores H. Engle, as Beneficiary.

1. **Conveyance.** For value received, Grantor hereby grants, bargains, sells and conveys to Trustee, in trust with power of sale, the property in Klamath County, Oregon, described as:

A portion of the SE 1/4 NE 1/4 of Section 36, Township 23 South, Range 10 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at a point on the East line of Section 36, Township 23 South, Range 10 East of the Willamette Meridian, Klamath County, Oregon, which is North 1 degree 04' 49" East 329.79 feet along said East line from the East 1/4 corner of said Section 36, being the true point of beginning of this description; thence North 89 degrees 32' 59" West 652.51 feet; thence North 1 degree 43' 00" East 331.40 feet, thence South 89 degrees 24' 58" East 648.82 feet to the East line; thence South 1 degree 04' 49" West 329.90 feet along the East line to the point of beginning.

together with all the appurtenances, tenements, hereditaments, fixtures, rents, issues, profits, water rights, easements, or privileges now or hereafter belonging to, derived from or in any way appertaining to the property.

2. **Obligations Secured.** This Trust Deed is intended to secure the following:

a. Each agreement of Grantor contained herein;

b. The payment of a certain Note dated July ____, 1990, in the original amount of \$11,000.00 made by Grantor payable to Beneficiary, together with interest as provided in the Note, and any renewals, modifications, or extensions thereof. The due date for final payment on the Note and maturity date of this Trust Deed is August 15, 1997.

MAIL TAX STATEMENTS TO:

Dolores H. Engle
4692 Herrin Rd. NE
Salem, OR 97305

AFTER RECORDING RETURN TO:

Robert J. Saalfeld
Harland & Ritter
P. O. Box 470
Salem, OR 97308-0470

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3. **Warranty of Title.** At the time of execution and delivery of this Trust Deed, Grantor is the owner of the property and any improvements thereon, Grantor has the right and authority to encumber the premises as provided in this Trust Deed, and the premises are free and clear of all liens and encumbrances, except: An easement created by instrument, subject to the terms and provisions thereof, dated May 22, 1973, recorded June 14, 1973, Volume M73, page 7427, Microfilm Records of Klamath County, Oregon for a 20' wide access easement centered along the East line. Grantor will defend Beneficiary's rights against any liens and encumbrances other than those listed above.

4. **Use of Property.** Grantor warrants and acknowledges that the property is vacant rural property.

5. **Payment of Taxes and Utilities.** Grantor shall pay to Beneficiary on a monthly basis 1/12 of the annual real property taxes and assessments imposed against the property. Beneficiary shall pay said taxes and assessments and upon payment of the real property taxes and assessments shall furnish evidence of payment of such taxes and assessments to Grantor.

6. **Liens.** Grantor shall not permit any lien prior or equal to Trustee's title to be imposed upon the Trust Property, except liens for taxes or assessments assessed but not yet due.

7. **Hazardous Substances.** Grantor shall cause the property and all operations conducted thereon to comply with all environmental laws. Grantor represents and warrants that Grantor shall prevent any person or entity from releasing, leaking, storing, manufacturing or disposing of any hazardous substance into the ground water or on the subject property. Should Grantor become aware of any hazardous substance or environmental problem with respect to the property, Grantor shall immediately notify Beneficiary in writing. In such event, Grantor shall immediately take all actions necessary or advisable for the containment and cleanup of any hazardous substance and restoration of the property and ground water in accordance with all environmental laws. In the event Grantor fails to perform these obligations, Beneficiary may do so at Grantor's expense, and such expense shall be immediately due and payable and shall accrue interest at the rate in the Note secured hereby.

Grantor indemnifies and holds Beneficiary harmless from all claims penalties, fines, costs or liabilities relating in any way to any violation of environmental laws or the breach of the warranties contained in this Trust Deed, including but not limited to costs of investigation, cleanup, remedial or restoration work, fines and penalties and including all attorney and expert fees. These warranties and indemnities survive any foreclosure or delivery of any deed in lieu of foreclosure.

8. **Condemnation.** In the event all or any portion of the property shall be taken by eminent domain, the Beneficiary, shall have the right to require that all or any portion of the monies payable as compensation for such taking, in excess of the amount required

to pay reasonable costs and attorney fees incurred by the Grantor in such proceedings, shall be paid to the Beneficiary and applied by it first to any costs and expenses necessarily paid or incurred by the Beneficiary in such proceedings, and the balance shall be applied to the Note secured hereby against the payments last becoming due thereon. All such compensation, awards, damages, rights of action and proceeds awarded to Grantor are hereby assigned to Beneficiary and Grantor agrees to execute such further assignments so the condemnation proceeds as Beneficiary may require.

9. Use, Maintenance, and Alterations. Grantor shall maintain the property in good condition and repair and promptly perform all repairs and maintenance necessary to preserve its value. Grantor shall not conduct or permit any nuisance on the property nor commit or suffer any strip or waste thereof. Grantor may demolish or remove the camping cabin on the property without the prior written consent of Beneficiary. Grantor will permit Beneficiary and its agents to enter upon the property at all reasonable times to inspect the property. Grantor shall promptly comply with all laws, ordinances and regulations of all governmental authorities applicable to the use or occupancy of the property. Grantor shall cut no live trees on the property without written consent of Beneficiary.

10. Beneficiary's Right to Advance Funds. If Grantor fails to perform any obligation required of it under this Trust Deed, Beneficiary may, without notice, take any steps necessary to remedy such failure. Grantor shall reimburse Beneficiary for all amounts expended in so doing on demand with interest at a rate equal to ten percent (10%) per annum from the date of expenditure until repaid. The amounts so advanced with interest as stated above shall be secured by this Trust Deed. Such action by Beneficiary shall not constitute a waiver of a default or any of the right or remedy which Beneficiary may have on account of Grantor's default.

11. Events of Default. The following shall constitute events of default:

a. Non Payment. Failure of Grantor to make any payment required by the Note or to make any payment for taxes, or any other payment necessary to prevent filing of or discharging of any lien.

b. Breach of Other Covenant. Failure of Grantor to preform any obligation contained in this trust deed within thirty (30) days after notice from Beneficiary (or Beneficiary's representative) specifying the nature of the default or, if the default cannot be cured within thirty (30) days, failure within such time to commence and pursue with reasonable diligence curative action. No notice of default and opportunity to cure shall be required if during the preceding twelve (12) calendar months, Beneficiary has already sent a notice to Grantor concerning the default in performance of the same obligation.

c. Sale or Transfer of Possession. The sale or transfer of possession of the property or any part thereof and in any manner by Grantor whether by deed, contract of sale, or similar agreement without the prior written consent of Beneficiary. Grantor acknowledges that the loan secured by this Trust Deed is personal to Grantor and that in

making it Beneficiary has relied on Grantor's credit, Grantor's interest in the Trust Property and financial market condition at the time this loan is made.

12. Remedies in Case of Default. In the event of default, Beneficiary or Trustee, as the case may be, may exercise any of the following rights and remedies, in addition to any other remedies which may be available at law, in equity, or otherwise:

a. Acceleration. Beneficiary may declare all sums secured by this Trust Deed, including all interest and prepayment penalties to be immediately due and payable.

b. Foreclosure. Beneficiary may obtain a decree foreclosing Grantor's interest in all or any part of the Trust Property.

c. Power of Sale. Beneficiary may direct Trustee, and Trustee shall be empowered, to foreclose the Trust Property by advertisement and exercise of the power of sale under applicable law.

d. Cumulative Remedies. Election to pursue one remedy shall not exclude resort to any other remedy, and, unless the context otherwise requires, all remedies under this Trust Deed are cumulative and not exclusive. An election by Beneficiary to cure the default shall neither prejudice the right to declare a default nor constitute a waiver of the breached term or any of the remedies provided herein. No delay or omission in exercising any right or remedy shall impair that or any other right or remedy or shall be construed to be a waiver of the default.

13. Application of Proceeds. All proceeds realized from the exercise of the rights and remedies under this Trust Deed shall be applied as follows:

a. To pay the costs of exercising such rights and remedies, including the costs of any sale, and the costs and expenses provided for in paragraph 14. e.;

b. To pay all other amounts owed by Grantor, payment of which is secured by this Trust Deed; and

c. The surplus, if any, shall be paid to the clerk of the court in the case of a judicial foreclosure, or otherwise to the person or persons legally entitled thereto.

14. General Provisions.

a. Reconveyance Upon Payment. Upon written request of Beneficiary stating that all sums secured hereby have been paid, surrender of this Trust Deed and the Note to Trustee for cancellation and retention and payment of its fees, Trustee shall reconvey, without warranty, the Trust Property then held hereunder. The recitals in any reconveyance executed under this Trust Deed of any matters of facts shall be conclusive

proof of the truthfulness thereof. The grantee in such reconveyance may be described as "the person or persons legally entitled thereto."

b. Substitute Trustee. In the event of dissolution or resignation of the Trustee, Beneficiary may substitute one or more trustees to execute the trust hereby created, and the new trustee(s) shall have all of the powers and duties of prior trustees.

c. Trust Deed Binding on Successors and Assigns. This Trust Deed shall be binding on and inure to the benefit of the successors and assigns of Grantor, Trustee and Beneficiary.

d. Notice. Any notice under this Trust Deed shall be in writing. Any notice to be given or document to be delivered under this Trust Deed shall be effective when either delivered in person or deposited as registered or certified mail, postage prepaid, addressed to the party at the address first stated in this Trust Deed; provided that any notice pursuant to exercise of the Trustee's power of sale in the event of default shall be sufficient if such notice complies with all provisions of Oregon law applicable to exercise of such powers of sale. Any party may by notice to the others designate a different address.

e. Expenses and Attorney Fees. In the event that Beneficiary or Trustee shall take any action, judicial or otherwise, to enforce the Note or any provision of this Trust Deed, review any sale or assignment, or if Beneficiary or Trustee shall be required to appear in any proceeding to protect and maintain the priority of Trustee's title to the Trust Property, Trustee or Beneficiary (or both) shall be entitled to recover from Grantor all expenses which it may reasonably incur in taking such action, including but not limited to costs incurred in searching records, the cost of title reports and surveyors' reports, and its attorney fees, whether incurred in a suit or action or any appeals from a judgment or decree therein or petition for review, or in connection with nonjudicial action, including any such expenses or fees in a bankruptcy proceeding.

f. Applicable Law. This Trust Deed shall be governed by the laws of the State of Oregon.

g. Time of Essence. Time is of the essence of this Trust Deed.

h. Severability. If any provision of this Trust Deed shall be held to be invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not affect any other provisions of this Trust Deed, but this Trust Deed shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

i. Entire Agreement. This Trust Deed and the Note contain the entire agreement of the parties with respect to the matters covered, and no other previous agreement, statement or promise made by any party to this Trust Deed which is not contained in its terms or in the terms of the Note shall be binding or valid.

IN WITNESS WHEREOF, Grantor has caused this Trust Deed to be executed as of the day first above written.

X Robin N. Chester
Robin N. Chester
X Sandra K. Chester
Sandra K. Chester

State of Oregon }
County of ~~Marion~~ Deschutes } ss.
NOTARY PUBLIC
STATE OF OREGON

On this 16th day of July, 1990, personally appeared the above named Robin N. Chester and acknowledged the foregoing instrument to be his voluntary act and deed.

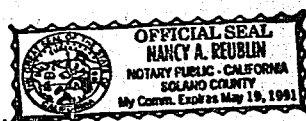
Before me:

Leidi P. [Signature]
Notary Public for Oregon
My Commission Expires: 12-1-93

State of ~~Oregon~~ California }
County of ~~Marion~~ Solano } ss.

On this 14th day of July, 1990, personally appeared the above named Sandra K. Chester and acknowledged the foregoing instrument to be her voluntary act and deed.

Before me:



Nancy A. Reublin
Notary Public for ~~Oregon~~ California
My Commission Expires: 5/19/91

STATE OF OREGON, ss.
County of Klamath

Filed for record at request of:

Mountain Title Co.
on this 24th day of July A.D., 19 90
at 11:32 o'clock A M. and duly recorded
in Vol. M90 of Mortgages Page 14711
Evelyn Biehn County Clerk
By Dorene Mulendore Deputy.