

20022

Volume Page 20048

## RECORDATION REQUESTED BY:

First Interstate Bank of Oregon, N.A.  
401 MAIN ST.  
P.O. BOX 108  
KLAMATH FALLS, OR 97601

## WHEN RECORDED MAIL TO:

First Interstate Bank of Oregon, N.A.  
401 MAIN ST.  
P.O. BOX 108  
KLAMATH FALLS, OR 97601

## SEND TAX NOTICES TO:

HELEN ROOKSTOOL  
4136 MONROVIA WAY  
KLAMATH FALLS, OR 97603

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE ONLY

mtc 23833

## DEED OF TRUST

## LINE OF CREDIT MORTGAGE

LINE OF CREDIT MORTGAGE. (a) This Deed of Trust is a LINE OF CREDIT MORTGAGE. (b) The maximum amount to be advanced pursuant to the credit agreement is \$33,000.00. (c) The term of the credit agreement commences on the date of this Deed of Trust and ends on or after September 11, 1995.

THIS DEED OF TRUST IS DATED SEPTEMBER 18, 1990, among HELEN ROOKSTOOL, whose address is 4135 MONROVIA WAY, KLAMATH FALLS, OR 97603 (referred to below as "Grantor"); First Interstate Bank of Oregon, N.A., whose address is 601 MAIN ST., P.O. BOX 608, KLAMATH FALLS, OR 97601 (referred to below sometimes as "Lender" and sometimes as "Beneficiary"); and HTL TITLE CO, whose address is 222 S. SIXTH ST KLAMATH FALLS OREGON 97601 (referred to below as "Trustee").

CONVEYANCE AND GRANT. For valuable consideration, Grantor conveys to Trustee for the benefit of Lender as Beneficiary all of Grantor's right, title, and interest in and to any Lease the following described real property, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; all easements, rights of way, and appurtenances; all water, water rights and ditch rights (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar resources, located in KLAMATH County, State of Oregon (the "Real Property"):

KLAMATH FALLS SECOND ADDITION LOTS 19 & 20 BLOCK 23

The Real Property or its address is commonly known as 1827-18929 WORDEN AVE, KLAMATH FALLS, OR . Grantor presently assigns to Lender (also known as Beneficiary in this Deed of Trust) all of Grantor's right, title, and interest in and to all present and future lease(s) of the Property and all Rents from the Property. In addition, Grantor grants Lender a Uniform Commercial Code security interest in the Rents and the Personal Property defined below.

DEFINITIONS. The following words shall have the following meanings when used in this Deed of Trust. Terms not otherwise defined in this Deed of Trust shall have the meanings attributed to such terms in the Oregon Uniform Commercial Code.

Borrower. The word "Borrower" means LESTER ROOKSTOOL and M. HELEN ROOKSTOOL.

Credit Agreement. The words "Credit Agreement" mean the revolving credit agreement dated September 18, 1990, with a credit limit in the amount of \$33,000.00, between Borrower and Lender, together with all renewals, extensions, modifications, refinancings, and substitutions for the Credit Agreement. The maturity date of this Deed of Trust is September 18, 1995. The rate of interest on the Credit Agreement is subject to indexing, adjustment, renewal, or renegotiation.

Grantor. The word "Grantor" means any and all persons (and entities) executing this Deed of Trust, including without limitation HELEN ROOKSTOOL. Any Grantor who signs this Deed of Trust, but does not sign the Credit Agreement, is signing this Deed of Trust only to grant and convey that Grantor's interest in the Real Property (and to grant a security interest in Grantor's interest in the Rents and Personal Property to Lender and is not personally liable under the Credit Agreement except as otherwise provided by contract or law.

Improvements. The word "improvements" means and includes without limitation all existing and future improvements, fixtures, buildings, structures, mobile homes affixed on the Real Property, facilities, additions and other construction on the Real Property.

Indebtedness. The word "indebtedness" means all principal and interest payable under the Credit Agreement and any amounts expended or advanced by Lender to discharge obligations of Grantor or expenses incurred by Trustee or Lender to enforce obligations of Grantor under this Deed of Trust, together with interest on such amounts as provided in this Deed of Trust. Specifically, without limitation, this Deed of Trust creates a revolving line of credit, which obligates Lender to make advances to Borrower so long as Borrower complies with all the terms of the Credit Agreement. Such advances may be made, repaid, and remade from time to time, subject to the limitation that the total outstanding balance owing at any one time, not including finance charges on such balance at a fixed or variable rate or sum as provided in the Credit Agreement, any temporary overages, other charges, and any amounts expended or advanced as provided in this paragraph, shall not exceed the Credit Limit as provided in the Credit Agreement. It is the intention of Grantor and Lender that this Deed of Trust secure the balance outstanding under the Credit Agreement from time to time from zero up to the Credit Limit as provided above and any indebtedness balance.

Personal Property. The words "Personal Property" mean all equipment, fixtures, and other articles of personal property now or hereafter owned by Grantor, and now or hereafter attached or affixed to the Real Property, together with all accessions, parts, and additions to, all replacements of, and all substitutions for, any of such property, and together with all proceeds (including without limitation all insurance proceeds and refunds of premiums) from any sale or other disposition of the Property.

**Property.** The word "Property" means collectively the Real Property and the Personal Property.

**Real Property.** The words "Real Property" mean the property, interests and rights described above in the "Conveyance and Grant" section.

**Related Documents.** The words "Related Documents" mean and include without limitation all promissory notes, credit agreements, loan agreements, guarantees, security agreements, mortgages, deeds of trust, and all other instruments and documents, whether now or hereafter executed, executed in connection with Borrower's indebtedness to Lender.

**Rents.** The word "Rents" means all present and future rents, revenues, income, issues, royalties, profits, and other benefits derived from the Property.

**THIS DEED OF TRUST, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS AND PERSONAL PROPERTY, IS GIVEN TO SECURE: (1) PAYMENT OF THE INDEBTEDNESS AND (2) PERFORMANCE OF EACH AGREEMENT AND OBLIGATION OF GRANITOR UNDER THE CREDIT AGREEMENT, THE RELATED DOCUMENTS, AND THIS DEED OF TRUST. THIS DEED OF TRUST IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:**

**GRANITOR'S WAIVERS.** Granitor waives all rights or defenses arising by reason of any "one action" or "anti-deficiency" law, or any other law which may prevent Lender from bringing any action against Granitor, including a claim for deficiency to the extent Lender is otherwise entitled to a claim for deficiency, before or after Lender's commencement or completion of any foreclosure action, either judicially or by exercise of a power of sale.

**PAYMENT AND PERFORMANCE.** Except as otherwise provided in this Deed of Trust, Borrower shall pay to Lender all indebtedness secured by this Deed of Trust as it becomes due, and Borrower and Granitor shall strictly perform all their respective obligations under this Deed of Trust.

**POSSESSION AND MAINTENANCE OF THE PROPERTY.** Granitor and Borrower agree that Granitor's possession and use of the Property shall be governed by the following provisions:

**Possession and Use.** Until the occurrence of an Event of Default, Granitor may (a) remain in possession and control of the Property, (b) use, operate or manage the Property, and (c) collect any Rents from the Property. The following provisions relate to the use of the Property or to other limitations on the 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.

**Duty to Maintain.** Granitor shall maintain the Property in tenable condition and promptly perform all repairs, replacements, and maintenance necessary to preserve its value.

**Hazardous Substances.** Granitor represents and warrants that the Property never has been, and never will be so long as this Deed of Trust remains a lien on the Property, used for the generation, manufacture, storage, treatment, disposal, release or threatened release of any hazardous waste or substance, as those terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Superfund Amendments and Reauthorization Act ("SARA"), applicable state or Federal laws, or regulations adopted pursuant to any of the foregoing. Granitor authorizes Lender and its agents to enter upon the Property to make such inspections and tests as Lender may deem appropriate to determine compliance of the Property with this section of the Deed of Trust. Granitor hereby (a) releases and waives any future claims against Lender for indemnity or contribution in the event Granitor becomes liable for cleanup or other costs under any such laws, and (b) agrees to indemnify and hold harmless Lender against any and all claims and losses resulting from a breach of this paragraph of the Deed of Trust. This obligation to indemnify shall survive the payment of the Indebtedness and the satisfaction of this Deed of Trust.

**Nuisance, Waste.** Granitor shall not cause, condone or permit any nuisance nor commit, permit, or suffer any stripping of or waste on or to the Property or any portion of the Property. Specifically without limitation, Granitor will not remove, or grant to any other party the right to remove, any timber, minerals (including oil and gas), soil, gravel or rock products without the prior written consent of Lender.

**DUE ON SALE - CONSENT BY LENDER.** Lender may, at its option, declare immediately due and payable all sums secured by this Deed of Trust upon the sale or transfer, without the Lender's prior written consent, of all or any part of the Real Property, or any interest in the Real Property. A "sale or transfer" means the conveyance of real property or any right, title or interest therein, whether legal or equitable; whether voluntary or involuntary; whether by outright sale, deed, installment sale contract, and contract, contract for deed, leasehold interest with a term greater than three (3) years, leasehold in contract, or by sale, assignment, or transfer of any beneficial interest in or to any land trust holding title to the Real Property, or by any other method of conveyance of real property interest. If any Granitor is a corporation or partnership, transfer also includes any change in ownership of more than twenty-five percent (25%) of the voting stock or partnership interests, as the case may be, of Granitor. However, this option shall not be exercised by Lender if such exercise is prohibited by Federal law or by Oregon law.

**TAXES AND LIENS.** The following provisions relating to the taxes and liens on the Property are a part of this Deed of Trust.

**Payment.** Granitor shall pay when due (and in all events prior to delinquency) all taxes, special taxes, assessments, charges (including water and sewer), fines and impositions levied against or on account of the Property, and shall pay when due all claims for work done on or for services rendered or material furnished to the Property. Granitor shall maintain the Property free of all liens having priority over or equal to the interest of Lender under this Deed of Trust, except for the lien of taxes and assessments not due and except as otherwise provided in this Deed of Trust.

**PROPERTY DAMAGE INSURANCE.** The following provisions relating to insuring the Property are a part of this Deed of Trust.

**Maintenance of Insurance.** Granitor shall procure and maintain policies of fire insurance with standard extended coverage endorsements on a replacement basis for the full insurable value covering all improvements on the Real Property in an amount sufficient to avoid application of any co-insurance clause, and with a standard mortgagee clause in favor of Lender, together with such other hazard and liability insurance as Lender may reasonably require. Policies shall be written in form, amounts, coverages and basis reasonably acceptable to Lender and issued by a company or companies reasonably acceptable to Lender. Granitor, upon request of Lender, will deliver to Lender from time to time the policies or certificates of insurance in form satisfactory to Lender, including stipulations that coverages will not be canceled or diminished without at least ten (10) days' prior written notice to Lender.

**EXPENDITURES BY LENDER.** If Granitor fails to comply with any provision of this Deed of Trust, or if any action or proceeding is commenced that would materially affect Lender's interests in the Property, Lender on Granitor's behalf may, but shall not be required to, take any action that Lender deems appropriate. Any amount that Lender expends in so doing will bear interest at the rate charged under the Credit Agreement from the date incurred or paid by Lender to the date of repayment by Granitor. All such expenses, at Lender's option, will (a) be payable on demand, (b) be added to the balance of the credit line and be apportioned (among and be payable with any installment payments to become due during either (i) the term of any applicable insurance policy or (ii) the remaining term of the Credit Agreement, or (c) be treated as a balloon payment which will be due and payable at the Credit Agreement's maturity. This Deed of Trust also will secure payment of these amounts. The rights provided for in this paragraph shall be in addition to any other rights or any remedy to which Lender may be entitled on account of the default. Any such action by Lender shall not be construed as during the default so as to bar Lender from any remedy that it otherwise would have had.

**WARRANTY; DEFENSE OF TITLE.** The following provisions relating to ownership of the Property are a part of this Deed of Trust.

**Title.** Grantor warrants that: (a) Grantor holds good and marketable title of record to the Property in fee simple, free and clear of all liens and encumbrances other than those set forth in the Real Property description or in any title insurance policy, title report, or final title opinion issued in favor of, and accepted by, Lender in connection with this Deed of Trust, and (b) Grantor has the full right, power, and authority to execute and deliver this Deed of Trust to Lender.

**Defense of Title.** Subject to the exception in the paragraph above, Grantor warrants and will forever defend the title to the Property against the lawful claims of all persons.

**CONDEMNATION.** The following provisions relating to proceedings in condemnation are a part of this Deed of Trust.

**Application of Net Proceeds.** If all or any part of the Property is condemned by eminent domain proceedings or by any proceeding or purchase in lieu of condemnation, Lender may at its election require that all or any portion of the net proceeds of the award be applied to the indebtedness or the repair or restoration of the Property. The net proceeds of the award shall mean the award after payment of all reasonable costs, expenses, and attorney's fees necessarily paid or incurred by Grantor, Trustee or Lender in connection with the condemnation.

**Protections.** If any proceeding in condemnation is filed, Grantor shall promptly notify Lender in writing, and Grantor shall promptly take such steps as may be necessary to defend the action and obtain the award. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of its own choice, and Grantor will deliver or cause to be delivered to Lender such instruments as may be requested by it from time to time to permit such participation.

**DEFAULT.** Each of the following, at the option of Lender, shall constitute an event of default ("Event of Default") under this Deed of Trust: (a) Grantor commits fraud or makes a material misrepresentation at any time in connection with the credit line account. This can include, for example, a false statement about Grantor's income, assets, liabilities, or any other aspects of Grantor's financial condition. (b) Grantor does not meet the repayment terms of the credit line account. (c) Grantor's action or inaction adversely affects the collateral for the credit line account or Lender's rights in the collateral. This can include, for example, failure to maintain required insurance, waste or destructive use of the dwelling, failure to pay taxes, death of all persons liable on the account, transfer of title or sale of the dwelling, creation of a lien on the dwelling without our permission, foreclosure by the holder of another lien, or the use of funds of the dwelling for prohibited purposes.

**RIGHTS AND REMEDIES ON DEFAULT.** Upon the occurrence of any Event of Default and at any time thereafter, Trustee or Lender, at its option, may exercise any one or more of the following rights and remedies, in addition to any other rights or remedies provided by law:

**Accelerate Indebtedness.** Lender shall have the right at its option without notice to Grantor or Borrower to declare the entire Indebtedness immediately due and payable, including any prepayment penalty which Borrower would be required to pay.

**Foreclosure.** With respect to all or any part of the Real Property, the Trustee shall have the right to foreclose by notice and sale, and Lender shall have the right to foreclose by judicial foreclosure, in either case in accordance with and to the full extent provided by applicable law. If this Deed of Trust is foreclosed by judicial foreclosure, Lender will be entitled to a judgment which will provide that if the foreclosure sale proceeds are insufficient to satisfy the judgment, execution may issue for the amount of the unpaid balance of the judgment.

**Other Remedies.** Trustee or Lender shall have any other right or remedy provided in this Deed of Trust or the Credit Agreement or by law.

**Sale of the Property.** To the extent permitted by applicable law, Grantor and Borrower hereby waive any and all rights to have the Property marshaled. In exercising its rights and remedies, the Trustee or Lender shall be free to sell all or any part of the Property together or separately, in one sale or by separate sales. Lender shall be entitled to bid at any public sale on all or any portion of the Property.

**Attorneys' Fees; Expenses.** If Lender institutes any suit or action to enforce any of the terms of this Deed of Trust, Lender shall be entitled to recover such sum as the court may adjudge reasonable as attorneys' fees at trial and on any appeal. Whether or not any court action is involved, all reasonable expenses incurred by Lender which in Lender's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the Indebtedness payable on demand and shall bear interest at the Credit Agreement rate from the date of expenditure until repaid. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's attorneys' fees whether or not there is a lawsuit, including attorneys' fees for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveys' reports, appraisal fees, title insurance, and fees for the Trustee, to the extent permitted by applicable law. Grantor also will pay any court costs, in addition to all other sums provided by law.

**MISCELLANEOUS PROVISIONS.** The following miscellaneous provisions are a part of this Deed of Trust:

**Applicable Law.** This Deed of Trust has been delivered to Lender and accepted by Lender in the State of Oregon. This Deed of Trust shall be governed by and construed in accordance with the laws of the State of Oregon.

**Time is of the Essence.** Time is of the essence in the performance of this Deed of Trust.

**Waivers and Consents.** Lender shall not be deemed to have waived any rights under this Deed of Trust (or under the Related Documents) unless such waiver is in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by any party of a provision of this Deed of Trust shall not constitute a waiver of or prejudice the party's right to otherwise demand strict compliance with that provision or any other provision. No prior waiver by Lender, nor any course of dealing between Lender and Grantor or Borrower, shall constitute a waiver of any of Lender's rights or any of Grantor or Borrower's obligations as to any future transactions. Whenever consent by Lender is required in this Deed of Trust, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required.

**EACH GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS DEED OF TRUST, AND EACH GRANTOR AGREES TO ITS TERMS.**

GRANTOR:

*Heidi Rockstool*  
HEIDI ROCKSTOOL

## INDIVIDUAL ACKNOWLEDGMENT

STATE OF Oregon )  
 ) ss  
COUNTY OF Klamath )

On this day before me, the undersigned Notary Public, personally appeared HELEN ROOKSTOOL, to me known to be the individual described in and who executed the Deed of Trust, and acknowledged that he or she signed the Deed of Trust as his or her free and voluntary act and deed, for the uses and purposes therein mentioned.

Given under my hand and official seal this 18th day of September, 19 90.

By K. Linville

Residing at Klamath Falls, OR

Notary Public in and for the State of Oregon

My commission expires 11-4-93

## REQUEST FOR FULL RECONVEYANCE

(To be used only when obligations have been paid in full)

Tror: \_\_\_\_\_, Trustee

The undersigned is the legal owner and holder of all indebtedness secured by this Deed of Trust. All sums secured by this Deed of Trust have been fully paid and satisfied. You are hereby directed, upon payment to you of any sums owing to you under the terms of this Deed of Trust or pursuant to any applicable statute, to cancel the Credit Agreement secured by this Deed of Trust (which is delivered to you together with this Deed of Trust), and to reconvey, without warranty, to the parties designated by the terms of this Deed of Trust, the estate now held by you under this Deed of Trust. Please mail the reconveyance and Related Documents to:

Date: \_\_\_\_\_

Beneficiary: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

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STATE OF OREGON: COUNTY OF KLAMATH: SL

Filed for record at request of Mountain Title Co. the 4th day  
of Oct. A.D. 19 90 at 9:18 o'clock A.M., and duly recorded in Vol. M90  
of 20048 on Page 20048

FEE \$23.00

Evelyn Biehn County Clerk

By Evelyn Biehn