

37539

TRUSTEE'S NOTICE OF DEFAULT AND ELECTION TO SELL AND OF SALE

Reference is made to that Trust Deed wherein Ernest S. Taylor and Jill S. Taylor, husband and wife, is Grantor; William Sisemore, is Trustee; and Klamath First Federal Savings and Loan Association, is Beneficiary, recorded in Official/Microfilm Records, Vol. M78, Page 5734 Klamath County, Oregon, covering the following-described real property in Klamath County, Oregon:

Lot 9 in Block 7 Sprague River Valley Acres, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

No action is pending to recover any part of the debt secured by the trust deed.

The obligation secured by the trust deed is in default because the grantor has failed to pay the following:

\$393.28 due June 20, 1991, and a like payment on the 20th day of each month thereafter, together with late charges in the amount of \$60.60; plus real property taxes for the years 1988-89, 1989-90, 1990-91, 1991-92 in the total amount of \$4,314.43 plus interest. The sum owing on the obligation secured by the trust deed is: \$31,454.24 plus interest at the rate of 9% per annum from May 1, 1991, plus late charges

plus trustee's fees, attorney's fees, foreclosure costs and any sums advanced by beneficiary pursuant to the terms of said trust deed.

Beneficiary has and does elect to sell the property to satisfy the obligation pursuant to ORS 86.705 to 86.795.

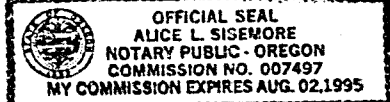
The property will be sold as provided by law on March 30, 19 92, at 10:00 o'clock A.m. based on standard of time established by ORS 187.110 at 540 Main St., #301, Klamath Falls, Klamath County, Oregon.

Interested persons are notified of the right under ORS 86.753 to have this proceeding dismissed and the trust deed reinstated by payment of the entire amount then due, other than such portion as would not then be due had no default occurred, together with costs, trustee's and attorney's fees, and by curing any other default complained of in this Notice, at any time prior to five days before the date last set for sale.

Dated: November 19, 19 91. William L. Sisemore, Trustee

STATE OF OREGON, County of Klamath ss
The foregoing was acknowledged before me on November 19, 19 91 by William L. Sisemore

Alice L. Sisemore Notary Public for Oregon — My Commission Expires: August 2, 1995

Certified to be a true copy:  _____ Attorney for Trustee

STATE OF OREGON, County of Klamath ss
Filed for record on November 19th, 19 91 at 11:55 o'clock A.m.
and recorded in M91 page 24225 of mortgages.

Evelyn Biehn Klamath County Clerk by Dorinda M. Mendenhall, Deputy

After recording return to:

WILLIAM L. SISEMORE
Attorney at Law
540 Main Street
Klamath Falls, OR 97601

Fee \$8.00

55 11 AM '91 NOV 19

PURCHASE AGREEMENT

THIS AGREEMENT MADE ON THIS DAY 12/11
OF 1991, between NANCY S. KAIB AND JOHN J. KAIB
HEREINAFTER CALLED "SELLER", and MICHAEL A.
DIEHL AND MARY M. DIEHL, HEREINAFTER KNOWN AS
BUYER.

WITNESSETH:
THAT IN CONSIDERATION OF THE COVENANTS
AND CONDITIONS HEREIN CONTAINED AND THE PAY-
MENTS TO BE MADE AS HEREINAFTER SPECIFIED
THE SELLER HEREBY AGREES TO SELL TO THE BUYER
AND THE BUYER AGREES TO PURCHASE FROM THE
SELLER ONE-THIRD INTEREST IN THE UNITED STATES
FOREST SERVICE LEASE FOR THE FOLLOWING
DESCRIBED REAL PROPERTY SITUATED IN THE COUNTY
OF KLAMATH, STATE OF OREGON, AN ONE-THIRD
INTEREST IN THE REAL PROPERTY LOCATED THEREON,
TO WIT:

(1) LOT OL Y 01 OF THE ODELL LAKE TRACT.
(a plat of which is on file in the office of
the FOREST SUPERVISOR)

1) PURCHASE PRICE AND TERMS: THE PURCHASE
PRICE OF THE PERSONAL PROPERTY AND LEASEHOLD
WHICH THE BUYER AGREES TO PAY, SHALL BE THE
SUM OF SIXTY THOUSAND DOLLARS (60,000.00)
PAYABLE AS FOLLOWS:
a) 45,000.00 less 4824⁰⁰ ALREADY PAID, IS
PAYABLE IN FULL TO NANCY S. KAIB.
b) 15,000.00 PAYABLE IN FULL TO JOHN J. KAIB
UPON SIGNATURE OF CONTRACT.

2) PERSONAL PROPERTY: THE ABOVE PURCHASE PRICE
ALSO INCLUDES PAYMENT BY BUYER TO SELLER FOR
ACQUISITION OF ONE-THIRD INTEREST IN THE

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Handwritten initials

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ALSO INCLUDES PAYMENT BY BUYER TO SELLER FOR
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PAGE 1 - CONTRACT OF SALE, KAIB TO DIEHL

THE BUYER SHALL BE ENTITLED TO POSSESS SAID PROPERTY AS TENANTS IN COMMON WITH SELLER SUBJECT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT AND THE TERMS AND PROVISIONS OF THE PARTNERSHIP AGREEMENT (A COPY OF WHICH IS ATTACHED HERETO BEARING ORIGINAL SIGNATURES OF BUYER AND SELLER), AND SHALL RETAIN SUCH RIGHTS SO LONG AS BUYER IS NOT IN DEFAULT UNDER THE TERMS AND CONDITIONS OF THIS AGREEMENT.

4. POSSESSION: The Buyer shall be entitled to possess said property as tenants in common with Seller subject to the terms and conditions of this agreement and the terms and provisions of the Partnership Agreement (a copy of which is attached hereto bearing original signatures of Buyer and Seller), and shall retain such rights so long as Buyer is not in default under the terms and conditions of this agreement.

5. WASTE AND USE

Buyer may make additions and alterations to existing structures and may construct other buildings on the premises subject to the conditions and limitations contained in the partnership agreement; all work shall be commenced and completed in an orderly, workmanlike manner and shall not impair Seller's security.

6. INSURANCE: The Buyer shall pay the portion of insurance on said premises pursuant to the terms of the Partnership Agreement.

7. DELIVERY OF BILL OF SALE: Seller agrees that when the purchase price is fully paid and upon request and upon surrender of this agreement, she will deliver a good and sufficient bill of sale conveying a one-THIRD interest in said premises unto the Buyer, their heirs, assigns and successors, free and clear of encumbrances since said date which encumbrances may have been placed, permitted or arisen by, through or under Seller.

Buyer agrees to assume the following encumbrances upon the leasehold and cabin:

Rights of First Refusal upon selling to Seller; Forest Service provisions in the escrow documents attached hereto and incorporated herein by this reference.

Buyers understand that Seller's interest in the said property is currently subject to a security interest and debt each in favor of the Estate of Alan B.

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cabin and dock and various items of personal property commonly located at the cabin. Buyer accepts the personal property in an "AS IS" "WHERE IS" condition. THERE IS NO WARRANTIES CONCERNING SAID PERSONAL PROPERTY, AND SELLER HEREBY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PURPOSE.

4. POSSESSION: The Buyer shall be entitled to possess said property as tenants in common with Seller subject to the terms and conditions of this agreement and the terms and provisions of the Partnership Agreement (a copy of which is attached hereto bearing original signatures of Buyer and Seller), and shall retain such rights so long as Buyer is not in default under the terms and conditions of this agreement.

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Buyer agrees to assume the following encumbrances upon the leasehold and cabin:

Recipient
 Rights of First Refusal upon selling to Seller; Forest Service provisions in the escrow documents attached hereto and incorporated herein by this reference.

Buyers understand that Seller's interest in the said property is currently subject to a security interest and debt each in favor of the Estate of Alan B.

Banks, which security interest and debt are presumed to have been distributed in a probate proceeding to Genel B. Banks, Glen A. Banks, Pam Penrod, and Tamera Whiteaker. Seller agrees to pay the obligation represented thereby as it becomes due and to save and hold Buyer's harmless therefrom. Buyer further understand that John Kaib is the owner of the other undivided one-third interest in the subject property and that the interest of Buyer's herein are subject to the rights of said John Kaib as an owner of an undivided interest as tenant in common with both Buyers and Sellers. Seller hereby represents to Buyers that Genel B. Banks, Glen A. Banks, Pam Penrod, and Tamera Whiteaker have consented to this sale. John Kaib, by his signature hereunder, evidences his consent to this sale.

8. **ESCROW:** As soon as practicable after the execution of this agreement, the parties shall deliver in escrow the following documents:

- a. A fully executed copy of this agreement.
- b. The Odell Lake Partnership Agreement.
- c. Such escrow instructions as shall meet with the approval of the escrow agent selected by the parties.

The parties instruct the escrow agent to receive for collection the monthly installments provided herein and to remit the same to Seller. Fees to establish and maintain the escrow shall be paid equally by the parties.

9. **PAYMENT RIGHT:** If Buyer fails to pay any tax, lien, cost, insurance premium or any other item which Buyer is obligated to pay, then Seller may elect to pay the same, but with no obligation to do so, and any such payment shall bear interest at the contract rate specified above from the date of payment as an additional, unpaid contract balance, immediately repayable upon demand. Any such payment shall not constitute a waiver of Seller's rights and remedies for a default; Seller may also pursue any other remedy provided herein or provided by law.

10. **DEFAULT AND REMEDIES:** If Buyer fails to perform any term of this agreement, or if Buyer or either of them becomes insolvent or bankrupt or makes an assignment for the benefit of creditors, time of payment and performance being of the essence, then subject to any notice requirement Seller shall have the optional rights to:

- a. Foreclose this contract by strict foreclosure.
- b. Declare the full unpaid balance of this agreement immediately due and payable.
- c. Specifically enforce this agreement by suit in equity.
- d. To declare a forfeiture of the interest of Buyer in the property

purchased herein utilizing, however, the provisions and procedures set forth in ORS 93.905 et seq. to the extent that the concepts and procedures therein set forth can be applied by analogy to personal property as opposed to real property. Upon recordation of an affidavit with the county recorder and with the Uniform Commercial Code section of the office of the Secretary of State, this Agreement shall be extinguished and canceled, and Buyer shall have no further right, title, or interest in and to the property or leasehold interest or to any return or compensation for payments previously made under this Agreement, as though this Agreement and such payments had never been made. In such event, Buyer agrees to surrender the property and leasehold to Seller. If Buyer fails to do so, Seller may elect to treat Buyer as a tenant holding over unlawfully after the expiration of a lease, and Buyer may be ousted and removed as such, without affecting Seller's rights to pursue other rights and remedies contained in this Agreement or permitted by law.

e. Pursue any and all other rights and remedies provided by law and equity.

Buyer shall not be in default for failure to perform any term of this contract, excluding money payments, until written notice of default has been given to Buyer and the specified default shall not be remedied within 20 days after giving written notice. For money payments, failure to make payment within 20 days after the due date specified herein shall establish default without the requirement of any notice to Buyer.

11. WAIVER OF DEFAULT: The Buyer further agrees that failure by the Seller at any time to require performance by the Buyer of any provisions hereof shall in no way affect his right hereunder to enforce the same, nor shall any waiver by said Seller of any breach of any provision hereof be held to be a waiver of any succeeding breach of any such provision, or as a waiver of the provision itself.

12. INTEGRATED WRITING AND INSPECTION: All the terms of this agreement are contained in this writing and the attachments hereto. Buyer acknowledges that they have fully and completely inspected the above-described premises and are satisfied as to its conditions; and that, in entering into this agreement, they are relying entirely upon their own inspection and investigation of the premises and the boundaries related thereto and not upon any statements or representations made to them by the Seller or her agents.

13. **ASSIGNMENT:** This agreement is personal between the parties and the Buyer shall not assign nor transfer in any fashion, including sale contract or assignment, their interest in this contract or the property described herein without the written consent of the Seller, and any attempt to do so without such consent shall constitute a default by the Buyer. The parties acknowledge that the current intent is to utilize the property among themselves and that the personal relationships of the parties is a key ingredient to the willingness of each of the parties to enter into this agreement.

14. **LICENSED REAL ESTATE BROKER:** Buyer acknowledges that Dean Abbott is a real estate broker licensed by the State of Oregon and in this transaction was acting for the interests of Buyer with the expectation of making a profit.

15. **ATTORNEY'S FEES:** In case suit or action is instituted to foreclose this contract or to enforce any of the provisions hereof, the Buyer and Seller both agree that any sums payable on account of reasonable attorney fees shall be paid to the prevailing party. The parties further agree that the prevailing party shall be entitled to reasonable attorney's fees upon appeal, if any, and as part of the costs may recover the expenses of any litigation or UCC report.

16. **SURVIVORSHIP:** The Buyers, and each of them, enter into this agreement as a tenant by the entirety in the interest and equity created under the terms of this contract, and in the event of the death of either of said Buyers during the life hereof, all Buyers' interest and equity in this agreement and in the property covered thereby shall pass to the survivor as a joint tenant. In the event of the death of both Buyers, all Buyers' interest and equity in this agreement shall pass to the Diehl Family Trust.

17. **SUCCESSORS IN INTEREST:** It is understood and agreed between the parties that all of the terms, provisions and covenants contained in this contract shall inure to the benefit of and be binding upon their heirs, assigns, executors, administrators, personal representatives and successors of all of the parties to this contract.

18. **WRITTEN NOTICE:** All written notices shall be mailed to Seller at NANCY KAIB and to Buyer at JOHN S. KAIB 1255 B SE 2041 KINCAID ST, EUGENE OR 97405 or at such other addresses as the parties shall designate in writing. Notice shall be deemed given the third postal delivery date after it is deposited in the United States mail, certified or registered, properly addressed with postage prepaid.

with
TTMO
N. Kaib

with
TTMO
N. Kaib

SA, OR
97477

19. TERMINOLOGY: In construing this contract, it is understood and agreed that the Seller or the Buyer may be more than one person; that if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter and that generally, all grammatical changes shall be made, assumed and implied to make the provision hereof apply equally to corporations and to individuals.

IN WITNESS WHEREOF, said parties have placed their signatures to evidence their consent to this transaction on the date first written above.

BUYERS:

Michael A. Diehl
MICHAEL A. DIEHL

Mary M. Diehl
MARY M. DIEHL

SELLERS:

Nancy S. Kaib
NANCY S. KAIB
Deann Brennan
exp. 9/19/93
10/7/91

John Kaib
JOHN KAIB
Deann Brennan
exp. 9/19/93
10/7/91

STATE OF OREGON

County of Lane

ss

On this 11th day of October, 1991, personally appeared the above named MICHAEL A. DIEHL and MARY M. DIEHL and acknowledged the foregoing instrument to be their voluntary act and deed.

Notary Public for
My Commission Expires

Peggy L. Ross
PEGGY L. ROSS
NOTARY PUBLIC OREGON
My Commission Expires 5-22-93

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STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Nancy S. Kaib the 19th day of Nov. A.D., 19 91 at 12:06 o'clock P M., and duly recorded in Vol. M91 of Deeds on Page 24226

FEE \$53.00

Evelyn Biehn County Clerk
By Deann Brennan

Return: Nancy Smith Kaib
P.O. Box 3805
Salem, Or. 97302