

## EASEMENT MAINTENANCE AND ACCESS AGREEMENT

EXHIBIT "A"

THIS AGREEMENT IS MADE THIS 20<sup>th</sup> DAY OF MARCH, 1998, BY MILLER HILL WEST HOMEOWNER ASSOC. (HEREINAFTER CALLED "OWNERS") FOR THEMSELVES, THEIR HEIRS, PERSONAL REPRESENTATIVES, SUCCESSORS, GRANTEEES AND ASSIGNS.

WHEREAS, THE OWNERS ARE THE OWNERS OF LAND LOCATED IN KLAMATH COUNTY, OREGON, OVER WHICH ONE EASEMENT HAS BEEN LOCATED AND DEDICATED TO JOINT USE, AND WHICH IS MORE PARTICULARLY DESCRIBED AND SHOWN ON ATTACHED EXHIBIT "B".

WHEREAS, OWNERS DESIRE TO UTILIZE THE EASEMENT FOR COMMON INGRESS AND EGRESS TO OWNER'S PROPERTIES AND TO MAINTAIN SAME ACCORDING TO THE TERMS AND PROVISIONS HEREOF.

WHEREAS, THE PARTIES DESIRE TO INSTITUTE A METHOD FOR MAINTNANCE OF THE EASEMENT.

1. BINDING COVENANTS: ALL OF THE TERMS, CONDITIONS AND RESTRICTIONS SET FORTH IN THIS AGREEMENT SHALL CONSTITUTE COVENANTS WHICH SHALL INURE TO THE BENEFIT OF AND BE BINDING UPON ALL OF THE REAL PROPERTY OF OWNERS DESCRIBED HEREIN, AND SHALL BE BINDING UPON ALL PARTIES HAVING ANY RIGHT, TITLE OR INTEREST IN SUCH REAL PROPERTY OR ANY PART THEREOF, THEIR HEIRS, PERSONAL REPRESENTATIVES, SUCCESSORS AND ASSIGNS.

2. OWNERS' PROPERTY: THE PROPERTY OF OWNERS SUBJECT TO THE TERMS OF THIS AGREEMENT IS MORE PARTICULARLY DESCRIBED ON EXHIBIT "B", ATTACHED HERE TO AND INCORPORATED HEREIN.

3. EASEMENT REQUIREMENTS: A EASEMENT HAS BEEN OR SHALL BE CONSTRUCTED IN ACCORDANCE WITH KID STANDARDS AND SHALL BE MAINTAINED AND REPAIRED AS SET FORTH THEREIN FOR UTILIZATION AS A ACCESS EASEMENT. THE EASEMENT SHALL BE USED FOR JOINT PRIVATE PURPOSES ONLY AND SHALL NOT BE OBSTRUCTED BY ANY OWNER FOR ANY PURPOSE WITHOUT THE PRIOR WRITTEN CONSENT OF ALL OWNERS OF PROPERTY DESCRIBED ON EXHIBIT "B".

4. MINIMUM MAINTENANCE: THE EASEMENT SUBJECT TO THIS AGREEMENT SHALL BE MAINTAINED AT ALL TIMES TO MEET THE CONSTRUCTION STANDARDS AS BUILT AS OF THE DATE OF THIS AGREEMENT. ALL MATERIAL AND CONSTRUCTION SPECIFICATIONS UTILIZED WITHIN SUCH MAINTNANCE SHALL BE AS SET FORTH IN THE AFOREMENTIONED STANDARDS.

- A. GRADING
- B. SURFACE ROCK REPLACEMENT
- C. CLEANING DITCHES AND CULVERTS
- D. RESEEDING CUTBANKS WHERE NECESSARY

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5. ADDITIONAL MAINTENANCE: ALL OWNERS OF THE PROPERTY DESCRIBED ON EXHIBIT "B" OF THIS AGREEMENT MAY AGREE TO IMPROVE THE AFFECTED EASEMENT OR TO MAINTAIN IT IN STANDARDS OVER THE ABOVE DESCRIBED HEREIN. FOR ALL PURPOSES DESCRIBED HEREIN A WRITTEN AGREEMENT SIGNED BY THE OWNERS OF 100% OF THE REAL PROPERTY DESCRIBED ON EXHIBIT "B" SHALL BE DEEMED TO BE THE AGREEMENT OF ALL OWNERS OF SAID PROPERTY. ALL COSTS AND EXPENSES OF IMPROVEMENT OR MAINTENANCE PURSUANT TO SUCH AGREEMENT SHALL BE THE OBLIGATION OF THE OWNERS OF THE PROPERTY DESCRIBED ON EXHIBIT "B" SUBJECT TO PROVISIONS FOR ASSESSMENT AND COLLECTION AS SET FORTH HEREIN.

6. ALLOCATION OF COST OF MAINTENANCE: ALL EXPENSES OF MAINTENANCE, REPAIR AND IMPROVEMENT OF THE EASEMENT SUBJECT TO THIS AGREEMENT, ABSENT AGREEMENT AMONG ALL OWNERS PROVIDING OTHERWISE, SHALL BE ALLOCATED TO THE VARIOUS PARCELS OF PROPERTY DESCRIBED ON EXHIBIT "B" HERETO. EACH PARCEL SHALL BE RESPONSIBLE FOR SUCH PORTION OF THE TOTAL COST OF MAINTENANCE OF ALL PARCELS DESCRIBED ON EXHIBIT "B" ATTACHED HERETO.

7. ASSESSMENT AND COLLECTION OF MAINTENANCE COSTS: ASSESSMENT OF ALL MAINTENANCE AND COSTS BY OWNERS SHALL BE AS THEY MAY AGREE. IN THE ABSENCE OF AGREEMENT, SUCH COSTS AND EXPENSES SHALL BE ALLOCABLE TO EACH PORTION OF THE AFFECTED PROPERTY BASED UPON THE NUMBER OF PARCELS AS SET FORTH IN PARAGRAPH 6 ABOVE. SUCH COSTS OF MAINTENANCE SHALL BE THE OBLIGATION OF THE OWNER OR OWNERS OF THE AFFECTED PARCEL IN FAVOR OF THE PERSON OR PERSONS WHO SHALL HAVE INCURRED ANY SUCH COSTS OF MAINTENANCE.

8. LIEN: ALL ASSESSMENT FOR EXPENSES OF MAINTAINING AND REPAIR OF EASEMENT BY THE OWNERS MADE PURSUANT TO THIS AGREEMENT SHALL CONSTITUTE A LIEN AGAINST THE OWNERS. THE COST FOR MAINTENANCE AND REPAIR INCURRED, SHALL CONSTITUTE A LIEN ON THE AFFECTED PROPERTY FROM AND AFTER THE DATE OF NOTICE OF SUCH LIEN HAS BEEN RECORDED IN THE OFFICIAL RECORDS OF KLAMATH COUNTY, OREGON. SUCH NOTICE SHALL DESCRIBE THE REAL PROPERTY, THE AMOUNT OF SUCH LIEN STATED IN DOLLARS AND CENTS, AND SHALL CONTAIN A REFERENCE TO THIS DOCUMENT OR SUCH OTHER AGREEMENT AUTHORIZING THE CREATION OF SUCH LIEN OR ITS DETERMINATION. SUCH LIEN SHALL RUN IN FAVOR OF AND MAY BE RELEASED BY THE PERSON OR PERSONS WHO HAVE INCURRED SUCH COSTS AND EXPENSES OF MAINTENANCE. ALL LIENS DESCRIBED HEREIN SHALL BE FORECLOSED IN THE MANNER SET FORTH IN CHAPTER 88 OF OREGON REVISED STATUTES.

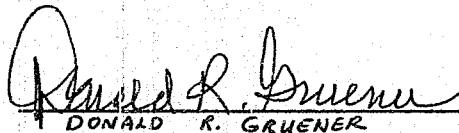
9. INDEMNIFICATION: EACH OWNER OF ANY OF THE REAL PROPERTY DESCRIBED IN EXHIBIT "B" AGREES TO DEFEND, INDEMNIFY AND HOLD THE OTHER OWNERS HARMLESS FROM AND AGAINST ANY LOSSES, CLAIMS, DEMANDS OR OTHER LIABILITIES WHATSOEVER ARISING OUT OF HIS OWN USE OF THE EASEMENT OR USE BY SUCH OWNERS' INVITES, GUESTS, AGENTS OR EMPLOYEES. EACH OWNER AGREES TO HOLD OWNERS HARMLESS FOR ANY DAMAGE OR INJURIES RESULTING FROM NEGLIGENCE OR INTENTIONAL FAILURE TO MAINTAIN OR REPAIR THE EASEMENT OR ANY IMPROVEMENTS THEREON AND FURTHER AGREES TO INDEMNIFY OWNERS FOR ANY DAMAGES AWARDED AGAINST OWNERS, INCLUDING ATTORNEY'S FEES AND COSTS OF SUIT ARISING THEREFROM. EACH OWNER OF REAL PROPERTY

DESCRIBED ON EXHIBIT "B" ASSUMES ALL RISKS ARISING OUT OF SUCH OWNERS' USE OF THE EASEMENT AND NONE OF SUCH OWNERS SHALL HAVE ANY LIABILITY AS BETWEEN THEMSELVES FOR ANY CONDITION EXISTING THEREON. OWNERS ASSUMES NO LIABILITY FOR ANY DAMAGES OR INJURIES CAUSED BY THE USE OF THE EASEMENT BY SUCH OWNERS OR BY THE GENERAL PUBLIC.

10. NOTICE: NOTICE AS USED HEREIN SHALL MEAN WRITTEN NOTICE PERSONALLY DELIVERED OR SENT BY REGULAR MAIL ADDRESSED TO THE OWNER OR SUCH OWNERS' AGENTS AS SHOWN ON THE REAL PROPERTY RECORDS OF KLAMATH COUNTY, OREGON. ALL NOTICES TO OWNERS SHALL BE ADDRESSED TO DONALD R. GRUENER, 1081 JOE WRIGHT ROAD, KLAMATH FALLS, OR 97603.

11. ATTORNEYS' FEES: IN THE EVENT SUIT, ACTION OR APPEAL THEREON, IS BROUGHT IN THE PREMISES OF THIS AGREEMENT, THE LOSING PARTY OR PARTIES SHALL PAY THE PREVAILING PARTY OR PARTIES REASONABLE ATTORNEYS' FEES AS DETERMINED BY THE COURT.

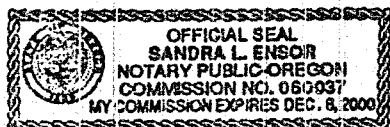
IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN SIGNED ON THE DAY FIRST ABOVE WRITTEN.

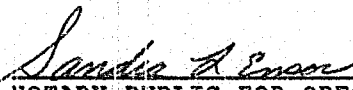
  
DONALD R. GRUENER

STATE OF OREGON

COUNTY OF KLAMATH

PERSONALLY APPEARED BEFORE ME THIS 20<sup>TH</sup> DAY OF MARCH, 1998, THE ABOVE NAMED DONALD R. GRUENER, AND ACKNOWLEDGED THE FOREGOING INSTRUMENT TO BE THEIR VOLUNTARY ACT AND DEED.



  
NOTARY PUBLIC FOR OREGON  
MY COMMISSION EXPIRES: 12/8/2000

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## EASEMENT MAINTENANCE AND ACCESS AGREEMENT

EXHIBIT "B"

ALL LAND DESCRIBED BELOW AND UNDER THE CHARTER OF MILLER  
HILL WEST HOMEOWNERS ASSOCIATION IS NOW HELD SOLELY BY DONALD R.  
GRUENER.

PARCEL 1 OF "MAJOR LAND PARTITION 78-03"

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Tru Line the 20th day  
of March A.D., 19 98 at 1:26 o'clock P. M., and duly recorded in Vol. M98,  
of Deeds on Page 8948.  
FEE \$45.00  
2.90 copy  
Return: Tru Line  
2333 Summers Lane  
Klamath Falls, OR 97603  
By Bernetha G. Leisch, County Clerk  
Kathleen Rasmussen