

2011-013868

Klamath County, Oregon



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12/16/2011 11:03:29 AM

Fee: \$82.00

M & L ENTERPRISES, INC.  
P. O. Box 17, Crescent, Oregon 97733  
Grantor's Name and Address

ALLEN E. GARDNER  
725 Country Club Road, Eugene, Oregon 97401  
Trustee's Name and Address

WALKER RANGE PATROL ASSOCIATION  
P. O. Box 665, Gilchrist, Oregon 97737  
Beneficiary's Name and Address

After recording, return to:  
ALLEN E. GARDNER  
725 Country Club Road, Eugene, Oregon 97401  
Until requested otherwise, send all tax statements to:  
No Change

#### TRUST DEED

THIS TRUST DEED is made as of the 15 day of December, 2011, by **M & L ENTERPRISES, INC.**, whose address is P. O. Box 17, Crescent, Oregon 97733 ("Grantor"), to **ALLEN E. GARDNER**, having his office at 725 Country Club Road, Eugene, Oregon 97401 ("Trustee"), for the benefit of **WALKER RANGE PATROL ASSOCIATION**, whose address is P. O. Box 665, Gilchrist, Oregon 97737 ("Beneficiary").

WHEREAS, Beneficiary for good and sufficient consideration has executed a Promissory Note in favor of Grantor in the sum of **THIRTY-FIVE THOUSAND EIGHTY-TWO and NINETY-SEVEN 100's DOLLARS (\$35,082.97)**, due and payable on demand. (The Promissory Note, as it may be modified, extended, or replaced from time to time, is referred to herein as the "Note"); and pursuant to the agreement of the parties, Grantor has agreed to provide, this Trust Deed, NOW, THEREFORE, for valuable consideration, receipt of which is hereby acknowledged, and for the purpose of securing the Obligations described in Section 1.01 below, Grantor hereby irrevocably grants, bargains, sells, conveys, assigns, and transfers to Trustee in trust for the benefit and security of Beneficiary, with power of sale, all of Grantor's right, title, and interest in and to the real property located in Lane County, State of Oregon, and more particularly described as:

#### PARCEL 2 OF LAND PARTITION NUMBER 45-04, RECORDS OF KLAMATH COUNTY, OREGON,

together with (1) all improvements now or hereafter located thereon, (2) all easements, tenements, hereditaments, and appurtenances relating thereto, (3) all awards for any taking of all or any portion thereof, and (4) all insurance proceeds for any damage thereto (collectively, the "Trust Property"), to have and to hold the Trust Property to Trustee and its successors and assigns for the benefit of Beneficiary and its successors and assigns, forever.

PROVIDED ALWAYS, that if all the Obligations shall be paid, performed, and satisfied in full, then the lien and estate hereby granted shall be reconveyed.

This Trust Deed, the Note, and all other agreements executed at any time in connection therewith, including but not limited to that Security Agreement also executed concurrently herewith, as they may be amended or supplemented from time to time, are sometimes collectively referred to as the "Loan Documents."

TO PROTECT THE SECURITY OF THIS TRUST DEED, GRANTOR COVENANTS AND AGREES AS FOLLOWS:

#### ARTICLE I

##### Particular Covenants and Warranties of Grantor

**1.01 Obligations Secured.** This Trust Deed secures the payment of all indebtedness, including but not limited to principal and interest, and the performance of all covenants and obligations of Grantor, under the Note, this Trust Deed, and the other Loan Documents, whether such payment and performance is now due or becomes due in the future, in addition to any later advances made by Beneficiary to or for Grantor (collectively, the "Obligations"). This Trust Deed also secures the payment and performance of any and all other indebtedness and obligations of Grantor to Beneficiary, present and future, of any nature whatsoever, whether direct or indirect, primary or secondary, joint or several, liquidated or unliquidated, whenever and however arising, and whether or not reflected in a written agreement or instrument.

**1.02 Payment and Performance.** Grantor shall pay and perform all of the Obligations when due.

**1.03 Property; Good Standing to Hold Title.** Grantor warrants that Grantor holds good and merchantable title to the Trust Property, free and clear of all liens, encumbrances, reservations, restrictions, easements, and adverse claims,

excepts easements of record. Grantor covenants that Grantor shall forever defend Beneficiary's and Trustee's rights hereunder and the priority of this Trust Deed against the adverse claims and demands of all persons, **EXCEPT** that existing encumbrance in favor of Bank of the Cascades. Grantor further represents that it is a valid and existing Oregon corporation, that it is duly authorized to enter into this transaction and hold title to the Trust Property, that the individual executing this instrument has full authority to do so and to bind Grantor, and that it will maintain itself in good standing so long as any money is owed pursuant to the promissory note secured by this instrument.

**1.04 Further Assurances.** Grantor shall execute, acknowledge, and deliver, from time to time, such further instruments as Beneficiary or Trustee may require to accomplish the purposes of this Trust Deed.

**1.05 Compliance with Laws.** Grantor represents, warrants, and covenants that the Trust Property is currently in material compliance with, and will at all times be maintained in material compliance with, all applicable laws, and all covenants, conditions, easements, and restrictions affecting the Trust Property.

**1.06 Environmental Compliance**

(1) For purposes of this section, "Environmental Law" means any federal, state, or local law or regulation now or hereafter at any time pertaining to Hazardous Substances or environmental conditions. For purposes of this section, "Hazardous Substance" includes, without limitation, any substance that is or becomes classified as hazardous, dangerous, or toxic under any federal, state, or local law or regulation.

(2) Grantor will not use, generate, store, release, discharge, or dispose of on, under, or about the Trust Property or the groundwater thereof any Hazardous Substance and will not permit any other person to do so, except for storage and use of such Hazardous Substances (and in such quantities) as may commonly be used for household purposes, provided such substances are stored and used in compliance with all Environmental Laws. Grantor will keep and maintain the Trust Property in compliance with all Environmental Laws.

(3) Beneficiary shall have the right to participate in any legal proceeding initiated with respect to the Trust Property in connection with any Environmental Law and have its attorney fees paid by Grantor. If, at any time, Beneficiary has reason to believe that any violation of this Section 1.06 has occurred or is threatened, Beneficiary may require Grantor to obtain or may itself obtain, at Grantor's expense, an environmental assessment by a qualified environmental consultant. Grantor shall promptly provide to Beneficiary a complete copy of any environmental assessment obtained by Grantor.

(4) If any investigation, monitoring, containment, cleanup, or other remedial work of any kind is required on the Trust Property under any applicable Environmental Law or by any governmental agency or person in connection with a release of a Hazardous Substance, Grantor shall promptly complete all such work at Grantor's expense.

(5) All representations, warranties, and covenants in this Section 1.06 shall survive the satisfaction of the Obligations, the reconveyance of the Trust Property, or the foreclosure of this Trust Deed.

**1.07 Maintenance and Improvements.** Grantor shall not permit the Trust Property or any part thereof to be removed, demolished, or materially altered without Beneficiary's prior written consent. Grantor shall maintain the Trust Property, and every portion thereof, in good repair and condition, except for reasonable wear and tear, and shall at Beneficiary's election restore, replace, or rebuild the Trust Property or any part thereof now or hereafter damaged or destroyed by any casualty (whether or not insured against or insurable) or affected by any Condemnation (as defined in Section 2.01). Grantor shall not commit or suffer any waste or strip of the Trust Property.

**1.08 Liens.** Grantor shall pay when due all claims for labor and materials that, if unpaid, might become a lien on the Trust Property. Grantor shall not create or suffer any lien, security interest, or encumbrance on the Trust Property that may be prior to, or on a parity with, the lien of this Trust Deed.

**1.09 Impositions.** Grantor shall pay when due all taxes, assessments, fees, and other governmental and nongovernmental charges of every nature now or hereafter assessed against any part of the Trust Property or on the lien or estate of Beneficiary or Trustee therein (collectively, the "Impositions"); provided, however, that if by law any such Imposition may be paid in installments, Grantor may pay the same in installments, together with accrued interest on the unpaid balance thereof, as they become due. Grantor shall furnish to Beneficiary promptly upon request satisfactory evidence of the payment of all Impositions. Beneficiary is hereby authorized to request and receive from the responsible governmental and nongovernmental personnel written statements with respect to the accrual and payment of all Impositions.

**1.10 Limitations of Use.** Grantor shall not initiate or consent to any rezoning of the Trust Property or any change in any covenant or other public or private restrictions limiting or defining the uses that may be made of the Trust Property without the prior written consent of Beneficiary.

**1.11 Insurance.** -[INTENTIONALLY DELETED]-.

**1.12 Casualty/Loss Restoration.** -[INTENTIONALLY DELETED]-.

**1.13 Actions to Protect Trust Property.** If Grantor shall fail to pay, perform, or observe any of its covenants

hereunder, Beneficiary may, but shall not be required to, take such actions as it deems appropriate to remedy such failure. All sums, including reasonable attorney fees, so expended, or expended to maintain the lien or estate of this Trust Deed or its priority, or to protect or enforce any of Beneficiary's rights hereunder, shall be a lien on the Trust Property, shall be secured by this Trust Deed, and shall be paid by Grantor on demand, together with interest thereon at the rate provided in the Note. No payment or other action by Beneficiary under this section shall impair any other right or remedy available to Beneficiary or constitute a waiver of any Event of Default.

**1.14 Estoppel Certificates.** Grantor, within five days of request therefor, shall furnish Trustee and Beneficiary a written statement, duly acknowledged, of the amount of the Obligations secured by this Trust Deed and whether any offsets or defenses exist against the Obligations secured hereby. If Grantor shall fail to furnish such a statement within the time allowed, Beneficiary shall be authorized, as Grantor's attorney-in-fact, to execute and deliver such statement.

## **ARTICLE II**

### **Condemnation**

Should the Trust Property or any part thereof be taken or damaged by reason of any public improvement, eminent domain, condemnation proceeding, or in any other manner (a "Condemnation"), or should Grantor receive any notice or other information regarding such action, Grantor shall give immediate notice thereof to Beneficiary. Beneficiary shall be entitled to all compensation, awards, and other payments or relief therefor ("Condemnation Proceeds") up to the full amount of the Obligations, and may appear in any Condemnation proceeding in its own or Grantor's name and make any settlement in connection therewith. Beneficiary may, at its option, apply the Condemnation Proceeds to the Obligations or release the proceeds to Grantor, on such terms and conditions as Beneficiary elects, for restoration of the Trust Property.

## **ARTICLE III**

### **Events of Default; Remedies**

**3.01 Events of Default.** Each of the following shall constitute an Event of Default under this Trust Deed and under each of the other Loan Documents:

- (1) **Nonpayment.** Failure of Grantor to pay any of the Obligations on or within 15 days after the due date.
- (2) **Breach of Other Covenants.** Failure of Grantor to perform or abide by any other covenant included in the Obligations, including without limitation those covenants in the Note, in this Trust Deed, or in any other Loan Document.
- (3) **Misinformation.** Falsity when made in any material respect of any representation, warranty, or information furnished by Grantor or its agents to Beneficiary in connection with any of the Obligations.
- (4) **Other Default.** The occurrence of any other event of default under the Note, the Loan Documents, or any of the other Obligations.
- (5) **Other Indebtedness, Secondary Financing.** Grantor's default beyond applicable grace periods in the payment of any other indebtedness secured by all or any portion of the Trust Property.
- (6) **Bankruptcy.** The occurrence of any of the following with respect to Grantor, any guarantor of the Obligations, or the then owner of the Trust Property: (a) appointment of a receiver, liquidator, or trustee for any such party or any of its properties; (b) adjudication as a bankrupt or insolvent; (c) filing of any petition by or against any such party under any state or federal bankruptcy, reorganization, moratorium, or insolvency law; (d) inability to pay debts when due; or (e) any general assignment for the benefit of creditors.
- (7) **Transfer Restricted; Due-on-Sale.** Any sale, gift, conveyance, contract for conveyance, transfer, or assignment of the Trust Property, or any part thereof or any interest therein, either voluntarily, involuntarily, or by the operation of law (a "Transfer"), without Beneficiary's prior written consent. Any lease for a term in excess of three years, and any lease containing an option to purchase the Trust Property or any portion thereof, shall be a Transfer. The provisions of this subsection (7) shall apply to each and every Transfer, regardless of whether or not Beneficiary has consented or waived its rights in connection with any previous Transfer. Beneficiary may attach such conditions to its consent under this subsection (7) as Beneficiary may determine in its sole discretion, including without limitation an increase in the interest rate or the payment of transfer or assumption fees, and the payment of administrative and legal fees and costs incurred by Beneficiary.

**3.02 Remedies in Case of Default.** If an Event of Default shall occur, Beneficiary or Trustee, as the case may be, may exercise any one or more of the following rights and remedies, in addition to any other remedies that may be available by law, in equity, or otherwise:

- (1) **Acceleration.** Beneficiary may declare all or any portion of the Obligations immediately due and payable.
- (2) **Rents.** Beneficiary may revoke Grantor's right to collect rents from the Trust Property, and may collect those rents. Beneficiary shall not be deemed to be in possession of the Trust Property solely by reason of exercise of the rights contained in this subsection (2).

**(3) Power of Sale.** Beneficiary may direct Trustee, and Trustee shall be empowered, to foreclose the Trust Property by advertisement and sale under applicable law.

**(4) Foreclosure.** Beneficiary may judicially foreclose this Trust Deed and obtain a judgment foreclosing Grantor's interest in all or any part of the Trust Property.

**3.03 Sale.** In any sale under this Trust Deed or pursuant to any judgment, the Trust Property, to the extent permitted by law, may be sold as an entirety or in one or more parcels and in such order as Beneficiary may elect. The purchaser at any such sale shall take title to the Trust Property or the part thereof so sold, free and clear of the estate of Grantor, the purchaser being hereby discharged from all liability to see to the application of the purchase money. Any person, including Beneficiary, may purchase at any such sale. Beneficiary is hereby irrevocably appointed Grantor's attorney-in-fact, with power of substitution, to make all appropriate transfers and deliveries of the Trust Property or any portions thereof so sold. Nevertheless, Grantor shall ratify and confirm any such sale or sales by executing and delivering to Beneficiary or to such purchaser or purchasers all such instruments requested by Beneficiary for such purpose.

**3.04 Cumulative Remedies.** All remedies under this Trust Deed are cumulative. Any election to pursue one remedy shall not preclude the exercise of any other remedy. No delay or omission in exercising any right or remedy shall impair the full exercise of that or any other right or remedy or constitute a waiver of any Event of Default.

**3.05 Application of Proceeds.** All proceeds from the exercise of the rights and remedies under this Article V shall be applied (1) to costs of exercising such rights and remedies; (2) to the Obligations, in such order as Beneficiary shall determine in its sole discretion; and (3) the surplus, if any, shall be paid to the clerk of the court in the case of a judicial foreclosure proceeding, otherwise to the person or persons legally entitled thereto.

#### **ARTICLE IV**

##### **General Provisions**

**4.01 Time is of the Essence.** Time is of the essence with respect to all covenants and obligations of Grantor under this Trust Deed.

**4.02 Reconveyance by Trustee.** At any time on the request of Beneficiary, payment of Trustee's fees, if any, and presentation of this Trust Deed, without affecting the liability of any person for payment of the Obligations, Trustee may reconvey, without warranty, all or any part of the Trust Property. The grantee in any reconveyance may be described as the "person or persons legally entitled thereto," and the recitals therein of any facts shall be conclusive proof of the truthfulness thereof.

**4.03 Notice.** Except as otherwise provided in this Trust Deed, all notices shall be in writing and may be delivered by hand, or mailed by certified mail, return receipt requested, postage prepaid, and addressed to the appropriate party at its address set forth at the outset of this Trust Deed. Any party may change its address for such notices from time to time by notice to the other parties. Notices given by mail in accordance with this paragraph shall be deemed to have been given upon the date of mailing; notices given by hand shall be deemed to have been given when actually received.

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

**4.05 Trust Deed Binding on Successors and Assigns.** This Trust Deed shall be binding on and inure to the benefit of the heirs, legatees, personal representatives, successors, and assigns of Grantor, Trustee, and Beneficiary.

**4.06 Indemnity.** Grantor shall, to the fullest extent allowed by law, hold Beneficiary and Trustee and, if either is a corporation or other legal entity, their respective directors, officers, employees, agents, and attorneys harmless from and indemnify them for any and all claims, demands, damages, liabilities, and expenses, including but not limited to attorney fees and court costs, arising out of or in connection with Trustee's or Beneficiary's interests and rights under this Trust Deed.

**4.07 Expenses and Attorney Fees.** Grantor shall pay all fees and expenses, taxes, assessments, and charges arising out of or in connection with the execution, delivery, and recording of this Trust Deed. If Beneficiary refers any of the Obligations to an attorney for collection or seeks legal advice following a default; if Beneficiary is the prevailing party in any litigation instituted in connection with any of the Obligations; or if Beneficiary or any other person initiates any judicial or nonjudicial action, suit, or proceeding in connection with any of the Obligations or the Trust Property (including but not limited to bankruptcy, eminent domain, or probate proceedings), and an attorney is employed by Beneficiary to appear in any such proceeding or seek relief from a judicial or statutory stay, or otherwise enforce Beneficiary's interests, then in any such event Grantor shall pay reasonable attorney fees, costs, and expenses incurred by Beneficiary in connection with the above mentioned events and any appeals. Such amounts shall be secured by this Trust Deed and, if not paid upon demand, shall bear interest at the rate specified in the Note.

**4.08 Applicable Law.** This Trust Deed shall be governed by the laws of the state of Oregon.

**4.09 "Person" Defined.** As used in this Trust Deed, the word "person" shall mean any natural person, partnership, trust, corporation, limited liability company, or other legal entity of any nature.

**4.10 Severability.** If any provision of this Trust Deed shall be held to be invalid, illegal, or unenforceable, the other provisions of this Trust Deed shall not be affected.

**4.11 Entire Agreement.** This Trust Deed contains the entire agreement of the parties with respect to the Trust Property. No prior agreement or promise made by any party to this Trust Deed that is not contained herein shall be binding or valid.

**4.12 Joint and Several Liability.** In the event this Trust Deed is executed by two or more persons as Grantor, all of such persons shall be liable, jointly and severally, for payment of all sums and performance of all other covenants in this Trust Deed.

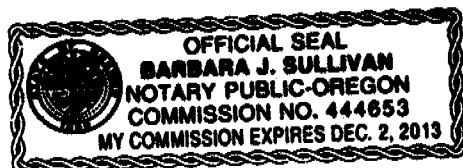
GRANTOR:

M & L ENTERPRISES, INC.

By: Larry E. Gieber  
Title: owner

STATE OF OREGON, County of Klamath ) ss.

The foregoing instrument was acknowledged before me this 15 day of December, 2011, by Larry E. Gieber as the OWNER of M & L ENTERPRISES, INC.



Barbara J. Sullivan  
Notary Public for Oregon  
My commission expires: 12-2-13

## SECURITY AGREEMENT

DATE: December 15, 2011

PARTIES: **WALKER RANGE PATROL ASSOCIATION** ("Secured Party")  
P. O. Box 665, Gilchrist, Oregon 97737

**M & L ENTERPRISES, INC.** ("Debtor")  
P. O. Box 17, Crescent, Oregon 97733

### RECITALS:

Concurrently herewith, Debtor has issued to the Secured Party a promissory note ("Note") in the amount of \$35,082.97, due upon demand, and upon terms as provided in the Note and as further stated herein. The Note is to be secured by a lien against certain assets owned by Secured Party, upon the terms and conditions set forth herein.

**NOW, THEREFORE**, the foregoing Recitals are incorporated herein, and the parties agree as follows.

**Section 1 - Definitions:** As used herein, the below terms have the following meanings (terms defined in the singular to have the same meaning when used in the plural and vice versa):

"Collateral" shall mean all of the assets, whether now owned or later acquired, together with all accessories, substitutions, additions, replacements, parts and accessions affixed to or used in connection therewith, as well as the products or proceeds thereof, transferred to Debtor pursuant to the sale of the assets of Secured Party concurrently herewith, including those assets described on **Exhibit A** attached hereto and incorporated herein.

"Commercial Code" shall mean the Uniform Commercial Code as enacted in the State of Oregon.

"Default" shall mean the occurrence of any of the events set forth in Section 4.1 below.

"Expense Payment" shall mean all sums paid or advanced by Secured Party by the terms of this Agreement.

"Indebtedness" shall mean all sums owed to Secured Party or its assignee, including amounts now owed or owed pursuant to a later obligation or advance, including but not limited to sums due by the terms of this Agreement.

"Interest Rate" shall be the rate as set forth in the Note.

"Security Documents" shall include this Agreement, and any other instrument or document now or hereafter executed evidencing, guarantying or securing all or any part of the Indebtedness.

**Section II - Creation of Security Interests:** As security for the payment of any and all of the Indebtedness of Debtor, Debtor hereby grants to Secured party a continuing first-priority, purchase money security interest in the Collateral in accordance with the Commercial Code.

**Section III - Affirmative Representations and Covenants:** As inducement to Secured Party to accept and enter into this agreement, Debtor represents and covenants as follows:

**3.1 Claims.** So long as any part of the Indebtedness remains outstanding, Debtor shall defend the Collateral against all claims and demands of any persons claiming the same or any interest therein adverse to the interest of Debtor or of Secured Party.

**3.2 Financing Statements.** So long as any part of the Indebtedness remains outstanding, Debtor will execute and deliver to Secured Party upon request, any financing statement, title document, notice, or other paper and perform any act requested by the Secured Party which is reasonably necessary or advisable to create, perfect, preserve, validate or otherwise protect such security interest or to enable the Secured Party to exercise and enforce its rights hereunder, and will promptly pay any filing fees and other costs in connection therewith.

**3.3 No Transfer of Assets.** Debtor agrees that so long as any part of the Indebtedness remains outstanding, no part of the Collateral will be sold, assigned, leased, transferred, or otherwise alienated, except inventory in the ordinary course of business, unless Secured Party approves such sale in advance in writing; and Debtor also agrees to take all steps necessary, or which are reasonably requested by Secured Party, to prevent any sale prohibited by this paragraph.

**3.4 Proceeds.** Upon Default, Debtor agrees that if Secured Party demands in writing, all proceeds of the Collateral shall be delivered to Secured Party promptly upon their receipt, in a form satisfactory to the Secured Party,

and all chattel paper, instruments and documents pertaining to the Collateral shall be delivered to Secured Party at the time and place and in the manner in which specified in Secured Party's demand.

**3.5 Affirmative Representations.** Debtor represents to Secured Party that no person or entity has any claim to or interest in the Collateral, including specifically but not limited to, a lien or security interest therein, other than the ownership interest of Debtor. Debtor warrants and covenants further that the Collateral is to be used for business or commercial use, other than agricultural purposes, and that Debtor's principal place of business in Oregon is located in Lane County, Oregon.

**3.6 Maintenance, Insurance, Etc.** Debtor will maintain the Collateral in good condition and repair and preserve the same against waste, loss, damage or depreciation in value other than by reasonable wear. Debtor will not use any of the Collateral in violation of any law or public regulation. Secured Party may examine and inspect the Collateral at any reasonable times, wherever located;

Debtor will keep the Collateral fully insured against loss or damage by fire, theft and such other hazards as Secured Party may from time to time require, with such deductible provisions, upon such terms, including loss payable and other endorsements, and in such company or companies as Secured Party may reasonably approve;

Debtor will keep the Collateral at all times in Klamath County, Oregon, and will not remove the Collateral from that location unless Secured Party consents in writing, which consent may be withheld in Secured Party's sole discretion;

Debtor will not suffer or permit any lien, levy or attachment thereon or security interest therein or financing statement to be filed with reference thereto, other than that of the Secured Party, and will not sell, exchange, lease or otherwise dispose of the Collateral except in the normal course of Debtor's business;

Debtor will pay, when due, all taxes, license fees and assessments relative to the Collateral or its use and relative performance of any of the foregoing, Secured Party may pay any security interest having priority hereto, may order and pay for the repair, maintenance and preservation of the Collateral, or any part thereof, may place and pay for any such insurance and may pay any such taxes. Debtor agrees to pay to Secured Party on demand all of the latter's disbursements for any of said purposes with interest at twelve percent (12%) per annum on all sums so paid from the date of payment until repaid. Repayment of all said sums shall be secured by this Security Agreement;

Debtor agrees to notify Secured Party promptly in writing of any change in business or residence address;

Debtor will join with Secured Party in executing, filing and doing whatever may be necessary under applicable law to perfect and continue Secured Party's security interest in the Collateral, all at Debtor's expense; and

Debtor hereby consents to any extension of time of payment; to any substitution, exchange or release of Collateral; to the addition of or release of any party or person primarily or secondarily liable for the obligations, or part thereof, and to the free assignment by Secured Party of any of Secured Party's interests.

#### **Section IV - Default/Remedies:**

**4.1 Events of Default.** Time is of the essence hereof. Debtor shall be in Default upon the occurrence of any of the following events or conditions:

- a. Failure of Debtor to pay any part of the Indebtedness within ten days of its due date.
- b. Debtor (i) making a general assignment for the benefit of the creditors, (ii) commencing a case under or otherwise seeking to take advantage of any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution or liquidation law, statute or proceeding, (iii) by any act indicating its consent to, approval of or acquiescence in any such proceeding or the appointment of any receiver or trustee for it or a substantial part of their property or suffering any such receivership, trusteeship or proceeding to continue undismissed for a period of sixty (60) days, or (iv) becoming a debtor in any case under any chapter of the United States Bankruptcy Code.
- c. Failure of Debtor to perform any other obligation under this Agreement or any of the other documents executed concurrently herewith, including but not limited to the documents evidencing the Indebtedness, or any other instruments executed by the parties concurrently herewith (including but not limited to the Sale Agreement or deed or trust), within 10 days after notice from Secured Party describing such failure.

**4.2 Acceleration.** In the event of Default, Secured Party shall have the right, at Secured Party's sole option, to accelerate the due date of any and all of the Indebtedness, which shall become immediately due and payable without any further notice or demand, notwithstanding the provisions of any writing evidencing same, and to pursue

Secured Party's rights under this agreement.

**4.3 Sale of Collateral.** Upon occurrence of Default, Secured Party shall have any and all remedies available under the Commercial Code or otherwise available to it by law as a secured creditor. Secured Party shall have the right to sell, resell, assign, transfer and deliver all or any part of the Collateral at a public or private sale or otherwise, at Secured Party's Option, for cash or on credit for future deliver, at such time(s) and place(s), and upon such terms and conditions as Secured Party deems proper, and in connection therewith may grant options and reasonable conditions (such as requiring proof of financial capacity to purchase such Collateral and/or cash deposit), after reasonable advertising and notice to Debtor. In the event that Secured Party is required by law or this Agreement to provide reasonable notification of the time and place of any public sale or reasonable notification of the time after which any private sale or other intended disposition of the Collateral is to be made, it is mutually agreed that commercial reasonableness and good faith require the giving of no more than fifteen (15) days prior written notice of the time and place of any public sale of the Collateral or of the time after which any private sale or other intended disposition thereof is to be made.

**4.4 Costs and Application of Proceeds.** After deducting costs and expenses from any proceeds of any sale or collection following disposition of any of the Collateral, Secured Party shall apply any residue to pay the Indebtedness.

**4.5 Nonwaiver.** Secured Party shall not be deemed to have waived any of Secured Party's rights, remedies, options or powers hereunder by reason of (a) delay in any exercise thereof; (b) partial or single exercise thereof; or (c) failure to exercise any right, remedy, option or power.

**4.6 Strict Performance.** It is understood and agreed, any law, custom or usage to the contrary notwithstanding, that Secured Party shall have the right at all times to enforce the covenants and provisions of this Agreement in strict accordance with the terms hereof, notwithstanding any conduct or custom on the part of Secured Party in refraining from so doing at any time or times.

**4.7 Remedies Cumulative.** All remedies and rights granted to Secured party under this Agreement shall be in addition to those granted to Secured Party under law and are deemed cumulative.

#### **Section V - No Representation:**

**5.1 No Representation.** Secured Party acknowledges that Debtor has not made any representation as to the value of the Collateral.

#### **Section VI - Perfection:**

**6.1 Perfection.** Immediately upon execution of this agreement, Secured Party will file with the Oregon Secretary of State a UCC-1 form for the purpose of perfecting Secured Party's interest in the Collateral.

#### **Section VII - Miscellaneous Provisions.**

**7.1 Termination.** This Agreement may be terminated by Debtor upon actual delivery of written notice to Secured party of such intention and payment in full with immediately available funds of all outstanding Indebtedness; provided that prior to such termination, this Agreement shall be a continuing agreement in every respect; and provided further, that such termination shall not relieve Debtor from liabilities incurred prior to termination or terminate the enforcement rights of Secured Party under this agreement.

**7.2 Transfer of Indebtedness.** Secured Party may at any time or from time to time sell, assign or transfer to any person all or any part of the Indebtedness and its interests under the terms of this Agreement. Upon any such sale, assignment or transfer, Secured Party shall be fully discharged thereafter from all liability and responsibility with respect to such Collateral as transferred, and the transferee or transferees shall be vested with all the rights powers and remedies of Secured Party hereunder with respect to such Collateral.

**7.3 Amendments.** None of the provisions of this Agreement nor any term, condition, covenant or agreement hereof may be changed, waived, discharged or terminated orally, but only by an instrument in writing referring to this Agreement and signed by the party against whom enforcement of the change, waiver, discharge or termination is sought.

**7.4 Notices and Communications.** All notices and other communications hereunder shall be in writing and shall be effective when sent by certified mail, return receipt requested, addressed to the address given for such party on the first page of this Agreement. Provided, that any party may change such address upon written notice to the



other parties.

**7.5 Inurement.** This Agreement shall be binding upon the successors of Debtor and shall inure to the benefit of the representatives and assigns of the Secured Party; provided, however, that nothing contained in this Agreement shall permit Debtor to assign any of its duties or obligations hereunder without the prior written consent of Secured Party.

**7.6 Governing Law and Jurisdiction.** This Agreement shall be construed and enforced in accordance with and under the laws of the State of Oregon, and jurisdiction and venue regarding any dispute over the parties rights and obligations under this agreement shall lie in Klamath County, State of Oregon.

**7.7 Invalidity.** All rights, powers and remedies provided by the provisions of this Agreement may be exercised only to the extent that the exercise thereof does not violate any applicable provision of laws, and are intended to be limited to the extent necessary so that they will not render this Agreement invalid, illegal or unenforceable under the provisions of any applicable law. If any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the validity of the other provisions of this Agreement shall not be affected thereby.

**7.8 Costs of Collection and Attorney Fees.** Debtor agree to pay, in addition to all other sums due hereunder, the reasonable collection costs of Secured Party plus reasonable attorney fees incurred in connection with any collection efforts hereunder, or in connection with any litigation, arbitration or other alternative proceeding to enforce or interpret any party's rights hereunder, including such fees on appeal or in proceedings before the U. S. Bankruptcy Court.

**7.9 Definitions.** All the terms herein which are defined by the Commercial Code shall have the same meanings as assigned to them by the Commercial Code unless and to the extent varied by this Agreement.

**7.10 Captions and Headings.** The captions and headings contained in this Agreement are included herein for convenience of reference only and shall not be considered a part hereof and are not in any way intended to limit or enlarge the terms hereof.

**7.11 Counterparts.** This Agreement may be executed in a number of identical counterparts. If so executed, each of such counterparts is to be deemed an original for all purposes and all such counterparts shall, collectively, constitute one agreement.

**7.12 No Rule of Construction.** All of the parties hereto have been represented by counsel or had the opportunity to consult with counsel in the negotiations and preparation of this Agreement; therefore, this Agreement will be deemed to be drafted by each of the parties hereto, and no rule of construction will be invoked respecting the authorship of this Agreement.

**7.11 Authority.** Debtor and the individual signing below on behalf of Debtor each warrant and represent that Debtor is a corporation which has been properly formed and exists as such an authorized entity, recognized by the State of Oregon and duly and properly operating and doing business in the State of Oregon, and further that each person signing on behalf of Debtor is duly authorized and has full legal authority to do so and to bind Debtor to the terms of this Agreement.

**7.13 Number and Gender of Words.** Whenever herein the singular number is used, the same shall include the plural where appropriate and words of any gender shall include each other gender where appropriate.

IN WITNESS WHEREOF, the parties have executed this agreement as of the date first above written.

**SECURED PARTY:**

**DEBTOR:**

WALKER RANGE PATROL ASSOCIATION

M & L ENTERPRISES, INC.

By: RD Buell

By: Jerry Lieber

Title: Dist. MANAGER

Title: OWNER

## EXHIBIT A

### ALL EQUIPMENT OF DEBTOR, INCLUDING BUT NOT LIMITED TO:

Link Belt Model 3400, year 1992 or 1995, Serial # E7J04013, with Pierce Processor Head, Model PTH20XL;  
Case Loader, year 1992, # 621ZF, Serial # JAK0027310, Bucket & Forks with quick release;  
Morbark Peeler, Serial # 599, Shed & Electric Motor & Hydraulic Pump;  
Harlo Fork Lift, year 1995, # HC-5600, Serial # HC5600-4WD-21-6;  
John Deere Processor with log max head, year 1986;  
Wood Splitter;  
1000 gal. tank & frame;  
Old peeler;  
500 gal. fire trailer;  
Large conveyor;  
Small conveyor.