

28-8/91
THIS CONTRACT OF SALE of real property made this 21st day of January 1975, between GEORGE P. ANDRIEU and LEONA M. ANDRIEU, husband and wife, hereinafter called "Vendor", and OSCAR A. DE NAULT and LOUISE G. DE NAULT, husband and wife, hereinafter called "Purchaser";

W I T N E S S E T H:

Vendor agrees to sell to Purchaser and Purchaser hereby agrees to buy from Vendor, at the price and on the terms, covenants, conditions and provisions hereinafter contained, all of the following described real property situate in the County of Klamath, State of Oregon, to-wit:

A piece or parcel of land situate in the Northwest quarter of Section 28, Township 40 South, Range 9 East of the Willamette Meridian, being more particularly described as follows:

Beginning at the intersection of the North line of said Section 28 and the center line of the lower Klamath Lake Road as presently located and constructed; thence Southeasterly along the centerline of said road to its intersection with the North-South centerline of said Section 28; thence Southerly along said North-South centerline 221.4 feet, more or less, to a point on the centerline of the Klamath Drainage District North Canal extended Easterly; thence Westerly 58.9 feet to the centerline of the Klamath Drainage District North Canal; thence Northerly along said North Canal centerline extended and along the North Canal centerline to its intersection with the Northerly line of said Section 28; thence Easterly along the section line to the point of beginning.

SUBJECT TO the exceptions set forth in Exhibit "A" attached hereto and thereby made a part hereof as though fully set forth hereat.

SPECIAL TERMS, COVENANTS, CONDITIONS AND PROVISIONS

The purchase price of the property, which Purchaser agrees to pay, is the sum of \$12,000.00 payable as follows:

a. \$3,400.00 down payment, receipt of which is hereby acknowledged.

b. \$8,600.00 deferred balance payable as follows: In annual installments of \$860.00, or more, plus interest, the first such installment to be paid on the first day of April, 1975, and a like installment on the first day of each April thereafter until the full sum of principal and interest secured by this Contract has been paid.

Interest on the deferred balance of the purchase price is fixed at the rate of six (6%) percent per annum simple interest on the declining balances of the deferred balance. Interest commences on the date hereof.

All installments due Vendor from Purchaser under this Contract shall be paid without demand to the Escrow Holder hereinafter named. All such installments received shall be applied first to interest accrued to the date of receipt and then applied to reduce principal.

At any time, Purchaser may increase any installment or prepay all or any part of the whole consideration, together with interest thereon to the date of any such payment. No partial payment, increased installment, nor payment for a partial conveyance by reason of the eminent domain provisions of this Contract, shall be credited in lieu of any regular future installment nor excuse Purchaser from making the regular installments specified in this Contract.

Purchaser has made an independent investigation and inspection of the real property herein described and has entered into this Contract without relying on any statement or representation or covenant not specifically embodied in this Contract, and accepts the property described in this Contract as is, in its present condition, and requires no work of any kind to be done on said property by Vendor.

GENERAL TERMS, COVENANTS, CONDITIONS AND PROVISIONS

The real property above described hereby sold to Purchaser includes all and singular the tenements, hereditaments, rights, easements, privileges and appurtenances thereunto belonging, or in anywise appertaining, improvements thereon, including, but not limited to, stationary pumps, pumping stations, pumping motors, pumping engines, reservoirs, nonportable pipes and flumes or other nonportable equipment now used for the production of water thereon or for the irrigation or drainage thereof, and the reversions, remainders, rents, issues and profits thereof, together with all the rights of the use of water for irrigating said premises and for domestic use thereon to which Vendor is now entitled, or which are now used on said premises, however the same may be evidenced, and together with all shares of stock or shares of water in any ditch or irrigation company which, in any manner, entitles the Vendor water for irrigating or domestic purposes upon said real property. The Vendor's lien created by this contract shall and does hereby include the real property above described, together with, all and singular, the tenements, hereditaments, rights, easements, privileges and appurtenances thereunto belonging or in anywise appertaining, and all improvements now or hereafter thereon, including, but not limited to, stationary pumps, pumping stations, pumping motors, pumping engines, reservoirs, nonportable pipes and flumes or other nonportable equipment now or hereafter used for the production of water thereon for the irrigation or drainage thereof, and the reversions, remainders, rents, issues and profits thereof, and together with all the rights to use of water for irrigating said premises and for domestic use thereon to which said real property is now or may hereafter become entitled, or which now are or may hereafter be used on said premises, however the same may be evidenced, and together with all shares of stock or shares of water in any ditch or irrigation company which, in any manner, entitles the legal or equitable owner thereof to water for irrigating or domestic purposes upon said real property. In addition, Purchaser hereby agrees that Vendor's lien is superior to any and all rights of Purchaser under and by virtue of any homestead, stay or exemption laws now in force, or which may hereafter become laws and that no timber will be cut from any of the real property subject to said lien.

Vendor hereby warrants that he has good and merchantable title to the real property above described, subject to the exceptions set forth in Exhibit "A" attached hereto. Vendor will, upon execution hereof, make and execute in favor of Purchaser a good and sufficient warranty deed conveying said premises free and clear as of this date of all encumbrances, subject to the exceptions set forth in Exhibit "A", and will place said deed, together with the original of this Contract, and any other conveyances of title or security instruments required hereby in escrow at First Federal Savings & Loan Association of Klamath Falls, Oregon, with instructions to said Escrow Holder that when and if the Purchaser shall have paid the balance of the purchase money and interest as above specified and shall have complied with all other terms and conditions of this Contract, to deliver the same to Purchaser subject to the usual printed conditions and provisions of the standard form of escrow instructions provided by said Escrow Holder.

Vendor shall furnish, at his own expense, a Purchaser's Title Insurance Policy issued by Transamerica Title Insurance Company under Order No. 28-8191 insuring Purchaser's title in the above described real property in the amount of \$12,000.00 subject to the exceptions set forth in Exhibit "A" attached hereto and printed conditions and exceptions contained in the usual form of title policy issued by said title insurance company.

Purchaser shall be entitled to possession of the above described real property on the date this contract is recorded. Purchaser shall remain in possession so long as Purchaser is not in default hereunder. Purchaser shall and hereby agrees to keep said real property in clean, sanitary, sightly, attractive condition; to commit no waste or otherwise damage or injure said premises; to maintain said premises in accordance with the laws and the ordinances and regulations of any constituted

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authority applying to said premises and to make up no unlawful use thereof; to pay regularly and seasonably, and before the same shall become delinquent, all taxes, assessments and charges of whatever nature (including additional charges by reason of change of use) levied and assessed against said real property and to pay and discharge all encumbrances thereafter placed thereon by Purchaser; to permit no lien or other encumbrances to be filed upon or placed against said premises without the written consent of Vendor; and it is further understood and agreed for the purposes of this provisions that if Purchaser fails to pay or discharge any taxes, assessments, liens, encumbrances or charges, Vendor, at his option and without waiver of default or breach of Purchase, and without being obliged to do so, may pay or discharge all or any part thereof, all of which said sums so paid by Vendor shall become repayable by Purchaser, together with interest at the rate of ten (10%) percent per annum, upon demand, payment of which is part of the performance of this Contract by Purchaser and a condition precedent to delivery of the warranty deed and other documents by the Escrow Holder.

Purchaser agrees to keep the buildings and improvements now on or hereafter placed upon the above described real property insured against loss by fire or other casualty in an amount not less than maximum insurable value as determined by the insurance carrier and shall obtain, at his own expense, said insurance in the name of Vendor as the primary insured with an endorsement thereon providing for loss payable to Vendor and Purchaser as their respective interests may appear. The policy or policies of insurance shall be delivered to Vendor, or, in lieu thereof, a certificate of such insurance may be provided by Purchaser and delivered to Vendor. If a loss should occur for which insurance proceeds shall become payable, the Purchaser may elect to either rebuild or repair the portion of the building so destroyed, or apply the proceeds to payment of the then unpaid balance of the purchase money. If the Purchaser elects to rebuild, he shall sign such documents as may be required by Vendor to guarantee the application of the insurance proceeds to the cost of such rebuilding or repair.

In the event any governmental agency or entity having the power of eminent domain acquires by eminent domain, or by negotiated sale in lieu of eminent domain, all, or any portion, of the real property described in this Contract, Vendor may require Purchaser to apply all proceeds received by Purchaser from such acquisition (remaining after payment by Purchaser of attorney fees, appraiser fees and related necessary and reasonable costs in connection with securing said proceeds) which proceeds are hereinafter called "net proceeds", toward the payment of the sums secured by this Contract. Upon receipt of said net proceeds, Purchaser shall notify Vendor of the amount of said net proceeds and Vendor shall, within ten (10) days after such notification, notify Purchaser in writing if Vendor elects to have said net proceeds applied toward payment of the sums secured by this Contract. If Vendor fails to so notify Purchaser of such election, Vendor shall conclusively be deemed to have elected not to require Purchaser to apply said net proceeds toward the sums secured by this Contract. If Vendor elects to have said net proceeds applied toward payment of the sums secured by this Contract, the amount to be received by Vendor shall not exceed the total of the principal plus accrued interest to the date of receipt thereof by Vendor, and all such sums shall be paid to the Escrow Holder named herein. Regardless of whether Vendor elects to have said net proceeds applied to the sums secured by this Contract, Vendor will join in any conveyance required by the governmental agency or entity acquiring a portion or all of the real property described herein by eminent domain, but Vendor shall not be required to partially convey more property than that which is acquired by such governmental agency or entity. Vendor shall not be obligated to participate in any negotiations with such governmental agency or entity. Any notice or notices required to be given by Purchaser to Vendor pursuant hereto shall be in writing, and shall be deemed given when the same is deposited in the United States Mail as registered mail, postage prepaid, addressed to Vendor at the last address of Vendor shown on the records of the Escrow Holder.

If Purchaser shall sell said real property described herein and

securing the unpaid balance of this Contract, Vendor may elect to permit the subsequent Purchaser to assume the balance of Purchaser's obligation secured hereby, or to demand payment from Purchaser, or the transferee of said Purchaser, or both (at the option of the Vendor) of such portion of the deferred balance as Vendor may consider satisfactory, or declare the entire balance of the deferred balance due and payable. This provision shall not apply to any transfer by Purchaser by way of gift, devise or bequest, or transfer between each Purchaser, if more than one, or transfer by Purchaser to any partnership or corporation wherein any Purchaser shall own more than fifty (50%) percent thereof. This clause cannot be waived unless Purchaser gives Vendor notice of such sale in writing and Vendor, after receipt of such written notice, accepts a payment from the subsequent Purchaser. The written notice provided for herein shall be deemed given when the same is deposited in the United States Mail as registered mail, addressed to the last address of Vendor shown on the records of the Escrow Holder.

Vendor may appear in or defend any action or proceeding at law, in equity, or in bankruptcy, affecting in any way the security hereof, and in such event, Vendor shall be allowed and paid, and Purchaser hereby agrees to pay, all costs, charges and expenses, including costs of evidence of title or validity and priority of the security and attorney fees in a reasonable sum, incurred in any such action or proceeding in which Vendor may appear, which shall bear interest at ten (10%) percent per annum from date of demand therefor. Failure of Purchaser to pay Vendor for such costs, charges and expenses within ninety (90) days from date of demand therefor shall constitute a breach of this Contract.

If Purchaser shall fail to perform any of the terms of this Contract, time of payment and performance being of the essence, Vendor shall, at his option, subject to the requirements of notice as herein provided, have the following rights:

- a. To foreclose this Contract by strict foreclosure in equity;
- b. To declare the full unpaid balance of the purchase price immediately due and payable; or,
- c. To specifically enforce the terms of this Contract by suit in equity.

The rights above set forth shall be cumulative rather than inclusive. Purchaser shall not be deemed in default for failure to perform any

covenant or condition of this Contract, other than the failure to make payments as provided for herein, until notice of said default has been given by Vendor to Purchaser and Purchaser shall have failed to remedy said default within thirty (30) days after the giving of the notice.

If Purchaser shall fail to make payments as herein provided and said failure shall continue for more than thirty (30) days after the payment becomes due, Purchaser shall be deemed to be in default and Vendor shall not be obligated to give notice to Purchaser of a declaration of said default.

Where notice in writing is required by Vendor to the Purchaser, such notice shall be deemed given when the same is deposited in the United States Mail as registered mail, addressed to the last address of Purchaser shown on the records of the Escrow Holder.

No waiver by Vendor of any breach of any covenant of this Contract shall be construed as a continuing waiver of any subsequent breach of such covenant nor as a waiver of any breach of any other covenant nor as a waiver of the covenant itself.

In the event any suit or action is commenced to foreclose this Contract, the court having jurisdiction of the case may, upon motion by Vendor, appoint a receiver to collect the rents and profits arising out of the above described real property and to take possession, management and control of the same during pendency of such foreclosure proceeding or until payment of the obligations hereby secured, and apply said rents and profits to the payment of the amount due hereunder, first deducting all proper charges and expenses attending the execution of said receivership.

Upon the commencement of any suit or action to collect the indebtedness or disbursements, secured hereby, or any part thereof, or to enforce any provision of this Contract by specific performance,

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foreclosure or otherwise, there shall become due, and Purchaser agrees to pay to Vendor, in addition to all statutory costs and disbursements, any amount Vendor may incur or pay for any title report, title search, insurance of title, or other evidence of title subsequent to the date of this Contract on any of the real property above described and this Contract shall be security for the payment thereof.

In the event any suit or action is instituted to collect the indebtedness or disbursements secured hereby, or any part thereof, or to enforce any provision of this Contract by specific performance, or foreclosure, or otherwise, the prevailing party, at trial, or on appeal, shall be entitled to such reasonable attorney fees as shall be fixed by the court having jurisdiction of the case, in addition to statutory costs and disbursements.

This Contract contains the full understanding of the parties with respect to the subject hereof and no modification hereof shall be given effect unless the same be in writing subscribed by the parties hereto or their successors in interest.

This Contract shall bind and inure to the benefit of, as the circumstances may require, the parties hereto, and their respective successors, heirs, executors, administrators and assigns.

In construing this Contract, the singular shall include both the singular and the plural and the masculine both the masculine and feminine.

WITNESS the hands of the parties hereto the day and year first above set forth.

George P. Andrieu
George P. Andrieu

Leona M. Andrieu
Leona M. Andrieu

Vendor

Oscar A. DeNault
Oscar A. DeNault

Louise G. DeNault
Louise G. DeNault

Purchaser

STATE OF OREGON)
County of Klamath) ss.

On the 21 day of January, 1975, personally appeared the above named George P. Andrieu and Leona M. Andrieu, husband and wife, and acknowledged the foregoing instrument to be their voluntary act and deed.

Before me:

Earl Miller
Notary Public for Oregon
My Commission expires: December 30, 1975

STATE OF OREGON)
) ss.
 County of Klamath)

On the 21 day of January, 1974, personally appeared the
 above named Oscar A. DeNault and Louise G. DeNault, husband and wife, and
 acknowledged the foregoing instrument to be their voluntary act and deed.

Before me:

(SEAL)

Carl Phillips
 Notary Public for Oregon
 My Commission expires: January 21, 1978

*Return
 to
 Giacomo, Jones & Zamsky
 635 Main
 City*

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SUBJECT TO: Terms and conditions of special assessment as farm use land that if said land becomes disqualified for such special assessment, an additional tax may be levied for the last five or lesser number of years in which the land was subject to such special assessment, which taxes purchaser shall assume and pay; regulations, including levies, assessments, water and irrigation rights and easements for ditches and canals, of Klamath Drainage District; easements and rights of way of record and apparent thereon; geothermal lease and agreement dated June 17, 1972, recorded August 8, 1972, in Book M-72 at page 8753, between George P. Andrieu and Leona M. Andrieu, husband and wife, and Geothermal Resources International, Inc., a Delaware corporation, which rights grantor reserves.

Vendor agrees not to renew said geothermal lease.

STATE OF OREGON; COUNTY OF KLAMATH: ss.

Filed for record at request of _____

this _____ day of _____ A. D., 19____ at _____ o'clock _____ M., and duly recorded in

Vol. _____ of _____ on Page _____

WM. D. MILNE, County Clerk

By _____ Deputy

Exhibit "A"