

MTC 1073-2982

32181

CONTRACT OF SALE

Vol. 77

Page

12041

SV July
May

THIS AGREEMENT, made and entered into this 7 day of
May, 1977, by and between L. F. NICHOLS and COLEEN M. NICHOLS, husband
and wife, hereinafter called Sellers, and DALE SCHLEGEL and SHIRLEY L.
SCHLEGEL, husband and wife, hereinafter called Buyers,

W I T N E S S E T H :

That the Sellers agree to sell to Buyers, and Buyers agree to
property, to-wit:

Beginning at the Southwest corner of Section 35, Township 39 South,
Range 12 East of the Willamette Meridian; thence running North 208.7 feet;
thence East 208.7 feet; thence South 208.7 feet; thence due West 208.7
feet to the Place of Beginning.

Subject, however, to the following:

1. The premises herein described are within and subject to the
statutory powers, including the power of assessment, of Langell Valley
Irrigation District.
2. Rights of the public in and to any portion of the herein described
premises lying within the limits of streets, roads or highways.

TOGETHER WITH all of the equipment, furnishings, fixtures and
inventory now used by Sellers in carrying on and conducting that certain
grocery store business known as "Lorella Store", Route 1, Box 45 Bonanza,
Oregon 97623.

Subject, to: Personal property taxes for 1976-1977.

ALSO TOGETHER WITH the assumed business name "Lorella Store";

ALL at and for a total purchase price of \$50,000.00, payable as
follows:

\$12,500.00 cash on exercise hereof, receipt of which is hereby
acknowledged;

\$37,500.00 with interest at the rate of 8% per annum from May 16, 1977, payable in monthly installments of not less
than \$358.37 per month, inclusive of interest, with
first payment due August 15, 1977, and a like install-
ment on the 15 day of every month thereafter until
the balance, and interest, is fully paid. No prepayment
may be made prior to December 31, 1977, thereafter
any or all of the unpaid balance may be prepaid
without penalty.

Of the \$50,000.00 purchase price \$5,000.00 is allocable to personal
property and \$45,000.00 to real property.

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Buyers covenant and agree as follows: That they will make said payments promptly on the dates above named to the order of Sellers at: Klamath First Federal Savings and Loan Association, 540 Main Street, Klamath Falls, Oregon 97601, that they will keep all of said real and personal property insured for the full amount of their insurable value in companies approved by the Sellers, and with loss payable to the parties as their interest may appear. Said policies shall be held by the Sellers until this agreement has been completely performed; that they will pay regularly and seasonably as the same shall become payable and before the same shall become delinquent all taxes, assessments, liens and encumbrances of every kind and nature; that they will not suffer or permit any of said property to become subject to any taxes, assessments, liens, charges or encumbrances whatsoever having precedence over the rights of Sellers in and to said property.

Sellers covenant and agree as follows: That said real property is free and clear of all liens and encumbrances, except as set forth above, and that said personal property is free and clear of all liens and encumbrances, except as set forth above; that they have good right to sell said real and personal property to Buyers, and that they will furnish Buyers with their good and sufficient bulk sales affidavit that they have no creditors. Sellers covenant and agree to indemnify and hold Buyers harmless with respect to any and all indebtedness of Sellers.

It is expressly understood and agreed that this is a conditional sales agreement and that full title to all of said real and personal property shall remain in Sellers until said balance and interest are paid in full. It is further understood and agreed that any and all equipment, furnishings, fixtures and inventory which may at any time hereafter be placed upon said premises by the Buyers shall become subject to the lien of this agreement as further security to the Sellers for the payment and performance of this agreement, and that any replacements to

present equipment when the same wears out will also be secured hereby. It is also further understood and agreed that any replacements of equipment furnishings and fixtures or additions thereto which shall be placed on the premises by the Buyers shall be purchased by the Buyers, and not leased or rented, which said replacements or additions shall become subject to the lien of this agreement.

It is further expressly understood and agreed that upon the execution of this agreement Sellers shall make and execute in favor of Buyers a good and sufficient warranty deed conveying said real property free and clear of all liens and encumbrances, except as set forth above, and a good and sufficient bill of sale conveying said personal property free and clear of all liens and encumbrances, except as set forth above; that Buyers and Sellers shall join in executing a financing statement, and Sellers shall execute a termination of financing statement; and that Buyers shall execute their certificate of withdrawal of the assumed business name, "Lorella Store", and that said deed, bill of sale, termination of financing statement, together with the original recorded Contract of Sale shall be placed in escrow at Klamath First Federal Savings and Loan Association, 540 Main Street, Klamath Falls, Oregon.

The real and personal property taxes and the insurance currently in force and effect on the premises will be prorated by and between Sellers and Buyers as of ^{July 7 915} ~~May 16~~ 1977. Personal property taxes will be prorated based on the 1976 taxes when payable.

Buyers shall be entitled to possession of said real and personal property on or before ^{July 7 915} ~~May 16~~ 1977. ^{PTN CN}

Sellers shall record their certificate of withdrawal of assumed business name of "Lorella Store" forthwith upon transfer of possession of said property to Buyers.

Buyers specifically agree to pay the full contract balance fifteen (15) years from the date of this contract.

It is understood between the parties that there exists a merchandise inventory. The parties agree to take said inventory as of the date of transfer to Buyers. The Buyers agree to pay the Sellers the reasonable value of said inventory separate from the terms of this agreement.

In case Buyers shall fail to make the payments aforesaid, or any of them punctually and upon the strict terms and at the time above specified, or fail to keep any of the other terms or conditions of this agreement, time of payment and strict performance being declared to be the essence of this agreement, then Sellers shall have the following rights: (1) To foreclose this contract by strict foreclosure in equity; (2) To declare the full unpaid balance immediately due and payable; (3) To specifically enforce the terms of this agreement by suit in equity; (4) To declare this contract null and void; and in any of such cases, except exercise of the right to specifically enforce this agreement by suit in equity, all of the right and interest hereby created or then existing in favor of Buyers derived under this agreement shall utterly cease and determine, and the premises aforesaid shall revert and re-vest in Sellers without any declaration of forfeiture or act of re-entry, and without any other act by Sellers to be performed and without any right of Buyers of reclamation or compensation for money paid or for improvements made, as absolutely, fully and perfectly as if this agreement had never been made.

Should Buyers while in default permit the premises to become

vacant, Sellers may take possession of the same for the purpose of protecting and preserving the property and their security interest therein, and in the event possession is so taken by Sellers they shall not be deemed to have waived their right to exercise any of the foregoing rights.

In case suit or action is instituted to foreclose this contract or to enforce any of the provisions hereof, the parties agree to pay reasonable costs of title report and title search and such sum as the trial Court may adjudge reasonable as attorney's fees to be allowed the prevailing party in said suit or action, and if an appeal is taken from any judgment or decree of such trial Court, the parties further promise to pay such sum as the appellate Court shall adjudge reasonable as attorney's fees to the prevailing party on such appeal.

Buyers further agree that failure by Sellers at any time to require performance by Buyers of any provision hereof shall in no way affect Sellers' right hereunder to enforce the same, nor shall any waiver by Sellers 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.

PROVIDED FURTHER, that the personal property herein sold is subject to terms and provisions of Uniform Commercial Code of the State of Oregon, and that all of the terms herein, the right, duties and remedies of the parties shall be governed by the laws of Oregon. That Sellers' address is Route 1 Box 45, Bonanza, Oregon 97623. That Buyers' address is _____. That each demand, notice or other communication shall be served or given by mail or telegram addressed to the parties at their mailing addresses as set forth herein, or by personal service upon the parties. Reasonable notice,

when notice is required, shall be five days. Buyers agree to join with Sellers in executing and filing a financial statement as required by said Uniform Commercial Code as above mentioned to protect and continue Sellers' security interest.

That Buyers' vendees' interest in said contract as between the parties as tenants by the entirety in the real property and as joint tenants with right of survivorship in the personal property.

Buyers acknowledge that they have personally inspected the personal property and real property and accept it in its present condition. Buyers further acknowledge that Sellers have made no representative as to the amount of income that can be realized from the operation of this business.

Buyers agree to keep said property at all times in as good condition as the same now are, that no improvement, now on or which may hereinafter be placed on said property shall be removed or destroyed before the entire purchase price has been paid.

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

It is expressly understood and agreed that this Agreement is contingent upon the approval of the Oregon Liquor Control Commission and upon its consenting to the transfer of all permits and licenses required for the operation of said business to the Buyer and upon the issuance of said permits and license to the Buyer. In the event that the said Oregon Liquor Control Commission fails or refuses to issue said permits and license to the Buyer by May 31, 1977, this Agreement shall be null and void and of no force or effect and any consideration paid by Buyer to Seller shall be forthwith returned by the Seller to the Buyer.

12047

IN WITNESS WHEREOF, said parties have executed this instrument in duplicate.



L. F. Nichols
L. F. NICHOLS

Coleen M. Nichols
COLEEN M. NICHOLS

"SELLERS"

Dale Schlegel
DALE SCHLEGEL

Shirley L. Schlegel
SHIRLEY L. SCHLEGEL

"BUYERS"

STATE OF OREGON)
County of Klamath) ss.

April 24, 1977.

Personally appeared the above named L. F. Nichols and Coleen M. Nichols, husband and wife, and acknowledged to me that the foregoing instrument to be their voluntary act and deed.

Before me:

Howard C. Allen
Notary Public for Oregon
My Commission Expires: April 28-1980

STATE OF OREGON)
County of Klamath) ss.

April 26, 1977

Personally appeared the above named Dale Schlegel and Shirley L. Schlegel, husband and wife, and acknowledged to me that the foregoing instrument to be their voluntary act and deed.

Before me:

Howard C. Allen
Notary Public for Oregon
My Commission Expires: April 28-1980

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Return MTC

STATE OF OREGON; COUNTY OF KLAMATH; ss.

I hereby certify that the within instrument was received and filed for record on the 8 day of July A.D., 19 77 at 9:35 o'clock A M., and duly recorded in Vol 177 of Deeds on Page 12041.

FEE 21.00

WM. D. MILNE, County Clerk
By Hazel Drazil Deputy