

## CONTRACT OF SALE

K-31357  
THIS CONTRACT, made this 1<sup>st</sup> day of January,  
1979, between RUDY JERDE and ROSE JERDE, husband and wife, here-  
inafter called the Seller, and W. JOHN McCULLOUGH and BONITA L.  
McCULLOUGH, hereinafter called the Buyer,

## W I T N E S S E T H :

That in consideration of the mutual covenants and agree-  
ments herein contained, the seller agrees to sell unto the buyer  
and the buyer agrees to purchase from the seller all of the fol-  
lowing described lands and premises situated in Klamath County,  
State of Oregon, to-wit:

Tracts 8 & 9 of PLEASANT HOME TRACTS NO. 2,  
excepting therefrom that portion deeded to  
the State of Oregon for State Highway pur-  
poses as disclosed in deed recorded October  
23, 1964, in Deed Volume 357 at Page 122,  
Klamath County, Oregon

for the sum of Two Hundred Fifteen Thousand and no/100 (\$215,000.00)  
Dollars, hereinafter called the purchase price, of which Thirty  
Thousand and no/100 (\$30,000.00) Dollars has been paid in cash at  
the time of the execution hereof, and the sum of Five Thousand and  
no/100 (\$5,000.00) Dollars has been paid by Promissory Note, bearing  
the date of this agreement, the receipt of which is hereby acknow-  
ledged by the seller; the buyer agrees to pay the balance of said  
purchase price to the order of the seller at the times and in the  
amounts as follows, to-wit:

The sum of Eighteen Hundred Twenty-Five and 69/100  
(\$1,825.69) Dollars in monthly installments of which the first  
installment is due on February 1, 1979, and a like installment due  
on the first day of each and every month thereafter, until the

HENDERSON  
& MOLATORE  
ATTORNEYS AT LAW  
426 MAIN STREET  
KLAMATH FALLS,  
OREGON 97601  
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1 entire balance of One Hundred Eighty Thousand and no/100 (\$180,000)  
2 Dollars is paid in full. However, the February 1, 1979 and March  
3 1, 1979 payments only may be reduced to Eight Hundred and no/100  
4 (\$800) Dollars per month at buyer's discretion. All of said pur-  
5 chase price may be paid at any time; all of the said deferred pay-  
6 ments shall bear interest at the rate of 9% per annum from this  
7 date until paid, said interest to be paid monthly and is included in  
8 the minimum regular payments above required. Taxes on said pre-  
9 mises for the current fiscal year shall be pro-rated between the  
10 parties hereto as of the date of this contract.

11 The buyer warrants to and covenants with the seller that  
12 the real property described in this contract is to be used for a  
13 business or commercial purposes other than agriculture.

14 The buyer shall be entitled to possession of said lands  
15 on the date hereof and may retain such possession so long as he is  
16 not in default under the terms hereof. The buyer agrees that at  
17 all times he will keep the buildings on said premises, now or here-  
18 after erected, in good condition and repair and will not suffer  
19 or permit any waste or strip thereof; that he will keep said pre-  
20 mises free from mechanic's and all other liens and save the seller  
21 harmless therefrom and reimburse seller for all costs and attorney's  
22 fees incurred by him in defending against any such liens; that he  
23 will pay all taxes hereafter levied against said property, as well  
24 as all water rents, public charges and municipal liens which here-  
25 after lawfully may be imposed upon said premises, all promptly  
26 before the same or any part thereof become past due; that at buyer's  
27 expense he will insure and keep insured all buildings now or here-  
28 after erected on said premises against loss or damage by fire (with

1 extended coverage in an amount not less than \$215,000.00 in a company  
2 or companies satisfactory to the seller, with loss payable to the  
3 seller as his interest may appear and all policies of insurance  
4 to be delivered to the seller as soon as insured. Now if the buyer  
5 shall fail to pay any such liens, costs, water rents, taxes, or  
6 charges or to procure and pay for such insurance, the seller may  
7 do so and any payment so made shall be added to and become a part  
8 of the debt secured by this contract and shall bear interest at the  
9 rate aforesaid, without wiaver, however, of any right arising to  
10 the seller for buyer's breach of contract.

11           The demised premises are now subject to a contract of  
12 sale recorded in the Records of Klamath County in Book           , Page  
13           thereof on which the unpaid principal balance at this  
14 time is Sixty-Three Thousand Five Hundred Ninety-Seven and 23/100  
15 (\$63,597.23) Dollars and no more, with interest paid to November  
16 28, 1978 payable in installments of not less than \$800.00 per month;  
17 the seller agrees to pay all sums due and to become due on said  
18 contract promptly at the times required for said payments and to  
19 keep said contract free from default; should any of the instali-  
20 ments of said contract so paid the seller include taxes or insurance  
21 premiums on the said described premises, the buyer agrees, on seller  
22 demands, forthwith to repay to the seller that portion of said in-  
23 stallments so paid applicable to taxes and insurance premiums;  
24 should the seller for any reason, permit said contract to be or be-  
25 come in default, the buyer may pay any sums required by said con-  
26 tract to be paid or otherwise perform said contract and the buyer  
27 shall be entitled to credit for all sums so paid by him against  
28 the sums next to become due on said purchase price pursuant to the

1 terms of this contract.

2 It is further agreed and understood between buyer and  
3 seller that the sellers, ARTHUR LEE WHEELER and CLARA WHEELER, under  
4 the contract above-described, are the purchasers under a contract  
5 of sale, dated April 28, 1961, and recorded May 18, 1961, in Volume  
6 329, page 555, Deed Records of Klamath County, Oregon, wherein  
7 IVAN W. McCORD and FLORENCE McCORD appear as sellers.

8 The seller agrees that at his expense and within ten days  
9 from the date hereof, he will furnish unto buyer a title insurance  
10 policy insuring (in an amount equal to said purchase price) market-  
11 able title in and to said premises in the seller on or subsequent  
12 to the date of this agreement, save and except the usual printed  
13 exceptions and the building and other restrictions and easements  
14 now of record, if any, and the said contract between sellers and  
15 ARTHUR LEE WHEELER and CLARA WHEELER and said contract between  
16 ARTHUR LEE WHEELER and CLARA WHEELER and IVAN W. McCORD and  
17 FLORENCE McCORD. Seller also agrees that when purchase price is  
18 fully paid and upon request and upon surrender of this agreement,  
19 he will deliver a good and sufficient deed conveying said premises  
20 in fee simple unto the buyer, his heirs and assigns, free and clear  
21 of encumbrances as of the date hereof excepting, however, the said  
22 easements and restrictions and the taxes, municipal liens, water  
23 rents and public charges so assumed by the buyer and further  
24 excepting all liens and encumbrances created by the buyer or assigns.

25 The buyer further represents to seller that he is in the  
26 business of real estate sales and experienced with matters of title  
27 to real property.

28

1 Time is of the essence of this contract, and in case the  
2 buyer shall fail to make the payments above required, or any of  
3 them, punctually within ten days of the time limited therefor, or  
4 fail to keep any agreement herein contained, then the seller at  
5 his option shall have the following rights: (1) to declare this  
6 contract null and void, (2) to declare the whole unpaid principal  
7 balance of said purchase price with the interest thereon at once  
8 due and payable and/or (3) to foreclose this contract by suit in  
9 equity and in any of such cases, all rights and interests created  
10 or then existing in favor of the buyer as against the seller here-  
11 under shall utterly cease and determine and the right to the pos-  
12 session of the premises above described and all other rights acquired  
13 by the buyer hereunder shall revert to and revest in said seller  
14 without any act of re-entry, or any other act of said seller to  
15 be performed and without any right of the buyer of return, re-  
16 clamation or compensation for moneys paid on account of the pur-  
17 chase of said property as absolutely, fully and perfectly as if  
18 this contract and such payments had never been made; and in case  
19 of such default all payments therefore made on this contract are  
20 to be retained by and belong to said seller as the agreed and reason-  
21 able rent of said premises up to the time of such default. And  
22 the said seller, in case of such default, shall have the right  
23 immediately or any time thereafter, to enter upon the land afore-  
24 said, without any process of law, and take immediate possession  
25 thereof, together with all the improvements and appurtenances  
26 thereon or thereto belonging.

27 It is agreed and understood between buyer and seller that  
28 all personal property pertaining to operation of this motel business

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1 shall be included in the sale and specifically identified by a  
2 Bill of Sale of the date herewith. It is further understood be-  
3 tween buyer and seller that seller's have a lease on seventeen  
4 colored television sets located on the premises and are not owned  
5 by seller. Buyer agrees to assume the leases on said television  
6 sets as part of this agreement.

7 The true and actual consideration paid for this transfer,  
8 in terms of dollars is \$215,000.00. However, buyer and seller  
9 agree the value of the apartments is \$56,000.00, the value of  
10 personal property is \$9,000.00, and the value of the motel units  
11 and land is \$150,000.00.

12 The buyer further agrees that failure by the seller at  
13 any time to require performance by the buyer of any provision here-  
14 of shall in no way affect his right hereunder to enforce the same,  
15 nor shall any waiver by said seller of any breach of any provision  
16 hereof be held to be a waiver of any succeeding breach of any such  
17 provision, or as a waiver of the provision itself. In case suit  
18 or action is instituted to foreclose this contract or to enforce  
19 any of the provisions hereof, the buyer agrees to pay such sum  
20 as the trial court may adjudge reasonable as attorney's fees to  
21 be allowed plaintiff in said suit or action and if an appeal is  
22 taken from any judgement or decree of such trial court, the buyer  
23 further promises to pay such sum as the appellate court shall  
24 adjudge reasonable as plaintiff's attorney's fees on such appeal.  
25 In construing this contract, it is understood that the seller or  
26 the buyer may be more than one person; that if the context so re-  
27 quires, the singular pronoun shall be taken to mean and include  
28 the plural, the masculine, the feminine and the neuter, and that

generally all gramatical changes shall be made, assumed and im-  
plied to make the provisions hereof apply equally to corporations  
and to individuals.

IN WITNESS WHEREOF, said parties have executed this instru-  
ment in duplicate; if either of the undersigned is a corporation,  
it has caused its corporate name to be signed and its corporate  
seal affixed hereto by its officers duly authorized thereunto by  
order of its board of directors.

Rudy Jerde  
RUDY JERDE, Seller

Rose Jerde  
ROSE JERDE, Seller

W. John McCullough  
W. JOHN McCULLOUGH, Buyer  
Bonita L. McCullough  
BONITA L. McCULLOUGH, Buyer

STATE OF OREGON }  
County of Klamath } ss.

Dec 26, 1978

Personally appeared the above named, RUDY JERDE and ROSE  
JERDE and W. JOHN McCULLOUGH and BONITA L. McCULLOUGH and acknow-  
ledged the foregoing instrument to be their voluntary act and deed.

W. John McCullough  
5543 So 6th  
K.F.

BEFORE ME:  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: 8.5.79

Return to KCTC

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record at request of \_\_\_\_\_

his 27th day of December A. D. 1978 at 10:20 o'clock A.M., on  
uly recorded in Vol. M-78, of Deeds on Page 28698

Fee \$21.00

Wm D. MILNE, County Clerk

Wm D. Milne

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