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TA-8-38-26682-8

Vol. 1783 Page 17565

THIS AGREEMENT, made and entered into this 12<sup>TH</sup> day of October, 19 83 by and between DAVID JAMES NOONAN

hereinafter called Seller, and WILLIAM J. MARTENS and ELAINE M. MARTENS, husband and wife

hereinafter called Buyer (it being understood that the singular shall include the plural if there are two or more sellers and/or buyers).

WITNESSETH:

Seller agrees to sell to the Buyer and the Buyer agrees to buy from the Seller for the price and on the terms and conditions set forth hereafter all of the following described property and improvements situate in Klamath County, State of Oregon, to-wit:

See "Exhibit A" attached hereto and incorporated by reference herein.

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The purchase price thereof shall be the sum of \$19,000.00 payable as follows: \$7,000.00 upon the execution hereof; the balance of \$12,000.00 shall be paid in monthly installments of \$316 INCLUDING interest at the rate of 12% per annum on the unpaid balance, the first such installment to be paid on the 15<sup>TH</sup> day of November, 1983, and a further and like installment to be paid on or before the 15<sup>TH</sup> day of each month thereafter until the entire purchase price, including both principal and interest is paid in full.

It is mutually agreed as follows:

- \* 1) Interest as aforesaid shall commence from date hereof, Buyer shall be entitled to possession of the property as of date hereof;
- \* 2) After date hereof, Buyer shall have the privilege of increasing any payment or prepaying the entire balance with interest due thereon to the date of payment;



- 3) Buyer shall pay promptly all indebtedness incurred by their acts which may become a lien or purported lien, upon said property, and shall regularly and before the same shall become delinquent, pay all taxes, including adjustment of same for any reason, assessments, liens, and encumbrances of whatsoever kind affecting said property after this date, provided, all such taxes, assessments and charges  
 \* for the current year shall be pro-rated as of date hereof and in the event Buyer shall fail to so pay, when due, any such matters or amounts required by Buyer to be paid hereunder, or to procure and pay seasonably for insurance, Seller may pay any or all such amounts and any such payment shall be added to the purchase price of said property on the date such payments are made by Seller and such amount shall bear interest at the same rate as provided above, without waiver, however, of any right arising to Seller for Buyer's breach of contract, and, in such event or events, the escrow holder is hereby directed and authorized to so add such amounts to the contract balance upon being tendered a proper receipt therefor; Buyer shall further provide Seller with proofs of payment of each year's taxes and insurance.
- 4) Buyer shall keep the buildings on said property insured against loss or damage by fire or other casualty in an amount not less than the insurable value thereof with loss payable to the parties hereto and the interests herein reflected, if any, all as their interests appear at the time of loss, all uninsured losses shall be borne by the Buyer on or after the date Buyer becomes entitled to possession;
- 5) Buyer agrees that all improvements now located or which shall hereafter be placed on the property, shall remain a part of the real property and shall not be removed at any time prior to the expiration of this agreement without the written consent of Seller, Buyer shall not commit or suffer any waste of the property, or any improvements thereon, or alteration thereof, and shall maintain the property, improvements and alterations thereof, in good condition and repair, provided, Buyer shall not make or cause to be made any major improvements or alterations to the property without first obtaining the written consent of Seller; such consent shall not be unreasonably withheld.
- 6) Seller shall upon the execution hereof make and execute in favor of Buyer a good and sufficient deed conveying said property free and clear of all liens and encumbrances, except as herein provided, and which Buyer assumes, unless otherwise therein provided, and will place said deed, together with one of these agreements, in escrow at Klamath County Title Co., 422 Main Street,  
 \* Klamath Falls, Oregon 97601, and shall enter into written escrow instructions in form satisfactory to said escrow holder and the parties hereto, instructing said escrow holder that when, and if, Buyer shall have paid the balance of the purchase price in accordance with the terms and conditions of this contract, said escrow holder shall deliver said deed to Buyer, but in case of default by Buyer said escrow holder shall, on demand, surrender said instruments to Seller;
- 7) Until a change is requested, all tax statements shall be sent to the following address:  
 William J. and Elaine M. Martens  
 4728 Alpine Drive  
 Klamath Falls, Oregon 97601
- 8) Buyer certifies that this contract of purchase is accepted and executed on the basis of his own examination and personal knowledge of the premises and opinion of the value thereof; that no attempt has been made to influence his judgment; that no representations as to the condition or repair of said premises have been made by Seller or by any agent of Seller; and that Buyer takes said property and the improvements thereon in the condition existing at the time of this agreement.



PROVIDED, FURTHER, that it is understood and agreed between the parties that time is of the essence of this contract, and in case Buyer shall fail to make the payments aforesaid, or any of them, punctually and upon the strict terms and at the times above-specified or fail to keep any of the terms or conditions of this agreement, then the Seller at his option shall have the following rights:

- 1) To declare this contract null and void;
- 2) To declare the whole unpaid principal balance of said purchase price with the interest thereon at once due and payable;
- 3) To withdraw said deed and other documents from the escrow and/or;
- 4) To foreclose this contract by suit or by strict foreclosure in equity, and in any of such cases, all rights and interest created or then existing in favor of the Buyer as against the Seller hereunder shall utterly cease and determine, and the right to the possession of the premises above-described and all other rights acquired by the Buyer hereunder shall revert to and revest in said Seller without any act of re-entry, or any other act of return, reclamation or compensation for monies paid on account of the purchase of said property as absolutely, fully and perfectly as if this contract and such payments had never been made; and in case of such default, all payments theretofore made on this contract are to be retained by and belong to said Seller as the agreed and reasonable rent of said premises up to the time of such default. The said Seller, in case of such default, shall have the right immediately, or at any time thereafter, to enter upon the land aforesaid, without any process of law, and take immediate possession thereof, together with all of the improvements thereon; and alternatively, Buyer shall have the right to apply to the Court for appointment of a receiver as a matter of right, and nothing in this contract shall preclude appointment of the Seller as such receiver.

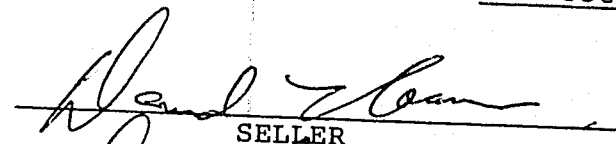
Should Buyer, while in default, permit the premises to become vacant, Seller may take possession of same for the purpose of protecting and preserving the property and his security interest herein, and in the event possession is so taken by Seller he shall not be deemed to have waived his right to exercise any of the foregoing rights.

In the event suit or action is instituted to enforce any of the terms of this contract, the prevailing party shall be entitled to recover from the other party such sum as the court may adjudge reasonable as attorney's fees at trial or on appeal of such suit or action, in addition to all other sums provided by law.

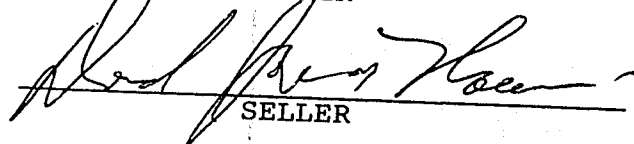
Buyer further agrees that failure by Seller at any time to require performance by Buyer of any provision hereof shall in no way affect Seller's right hereunder to enforce the same, nor shall any waiver by Seller of any breach of any provision hereof be held to be a waiver of any succeeding breach of any such provision, or as a waiver of the provision itself.

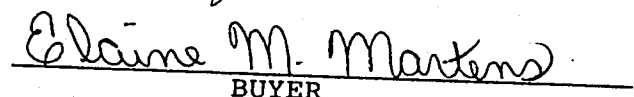
This agreement shall bind and inure to the benefit of, as the circumstances may require, the parties hereto and their respective heirs, executors, administrators, successors and assigns, subject to the foregoing.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed this 12<sup>th</sup> day of October, 1983.

  
SELLER

  
BUYER

  
SELLER

  
BUYER



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STATE OF OREGON, County of Klamath ) ss.

Personally appeared the above-named \_\_\_\_\_

DAVID JAMES NOONAN  
on this 12<sup>th</sup> day of October, 1983 and acknowledged  
the foregoing instrument to be his voluntary act and deed.

Before me:

Susan C. Latzke  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: 11-2-86

STATE OF OREGON, County of Klamath ) ss.

Personally appeared the above-named WILLIAM J. MARTENS and

ELAINE M. MARTENS, husband and wife,  
on this 12<sup>th</sup> day of October, 1983 and acknowledged  
the foregoing instrument to be their voluntary act and deed.

Before me:

Susan C. Latzke  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: 11-2-86

STATE OF OREGON, County of \_\_\_\_\_ ) ss.

I certify that the within instrument was received for record on the  
\_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock  
\_\_\_\_\_ M., and recorded in Book \_\_\_\_\_ on Page \_\_\_\_\_ or as  
file/reel number \_\_\_\_\_, of said county.

Witness my hand and seal of County affixed.

\_\_\_\_\_  
Recording Officer

By: \_\_\_\_\_

Deputy



## "EXHIBIT A"

"A tract of land situated in the NW $\frac{1}{4}$  of Section 18, Township 39 South, Range 10 East of the Willamette Meridian, in the County of Klamath, State of Oregon, more particularly described as follows:

Beginning at the Northwest corner of said Section 18; thence South 00° 01' 10" West 2132.47 feet; thence South 89° 51' 42" East 1525.28 feet to the true point of beginning of this description; thence North 00° 00' 22" East 372.55 feet; thence South 89° 55' 23" East 240.00 feet; thence South 00° 00' 23" West 372.81 feet; thence North 89° 51' 42" West 240.00 feet to the true point of beginning.

TOGETHER WITH the non-exclusive right of ingress and egress over the following described roads: 60-foot strips of land situated in the N $\frac{1}{2}$  of Section 18, Township 39S., R. 10 E.W.M., Klamath County, Oregon, being 30 feet on either side of, measured at right angles from the following described center lines:

- (1) Beginning at a point on the easterly right of way line of State Highway 39, said point being S. 00° 01' 10" W. 2162.47 feet and S. 89° 51' 42" E. 25.31 feet from the NW corner of said Section 18; thence S. 89° 51' 42" E. 2548.10 feet to a point, N. 89° 51' 42" W. 30.00 feet from the East line of the NW $\frac{1}{4}$  of said Section 18.
- (2) Beginning at the center  $\frac{1}{4}$  corner of said Section 18; thence N. 00° 00' 23" E. 1334.32 feet to the C-N 1/16 corner of said Section 18.
- (3) Beginning at a point S. 00° 01' 10" W. 2192.47 feet and S. 89° 51' 42" E. 1323.84 feet from the NW corner of said Section 18; thence S. 00° 02' 03" E. 465.00 feet to the South line of the NW $\frac{1}{4}$  of said Section 18.
- (4) Beginning at a point S. 00° 01' 10" W. 2132.47 feet and S. 89° 51' 42" E. 599.83 feet from the NW corner of said Section 18; thence N. 00° 02' 42" W. 409.32 feet; thence S. 89° 59' 04" E. 132.38 feet; thence on the arc of a curve to the right (radius = 250.00 feet, central angle = 47° 03' 50") 205.35 feet; thence S. 42° 55' 14" E. 81.00 feet; thence on the arc of a curve to the left (radius = 175.06 feet, central angle = 71° 03' 30") 217.11 feet; thence N. 66° 01' 16" E. 144.49 feet; thence on the arc of a curve to the left (radius = 370.00 feet, central angle = 69° 18' 42") 447.60 feet; thence N. 03° 17' 26" W. 157.53 feet to the N. line of the SE $\frac{1}{4}$ NW $\frac{1}{4}$  of said Section 18.

## SUBJECT TO:

- 1) Contracts and/or liens for irrigation and/or drainage, the schedule of exclusions from coverage, together with any schedules contained in standard title policies, reservations, easements, restrictions and rights of way of record and those apparent on the land.
- 2) Acreage and use limitations under provisions of United States Statutes and regulations issued thereunder.
- 3) Liens and assessments of Klamath Project and Enterprise Irrigation District, and regulations, contracts, easements and water and irrigation rights in connection therewith."

## ALSO SUBJECT TO:

- 1) A Contract, including the terms and provisions thereof, a memorandum of which was

Dated:	April 16, 1979	Book: M-79	Page: 8416
Recorded:	April 17, 1979		
Vendor:	L. A. Swetland, M.D.P.C., Pension and Profit Sharing Trust, an undivided one-quarter interest; R.H. Otteman, M.D.P.C., Pension and Profit Sharing Trust, an undivided one-quarter interest; Ore-Cal General Wholesale, Inc., an Oregon corporation, an undivided one-quarter interest; and Garret D. Hilyard and Betty Jean Hilyard, husband and wife, an undivided one-quarter interest.		

Vendee: Harry R. Waggoner and Norma E. Waggoner, husband and wife  
The obligation for which Buyer does not assume.

- continued -



- 2) A Contract, including the terms and provisions thereof, a memorandum of which was

Dated: April 19, 1979  
Recorded: April 20, 1979 Book: M-79 Page: 8902  
Vendor: Harry R. Waggoner and Norma E. Waggoner  
Vendee: Eric C. Lewis and Beverly Lewis, husband and wife  
The Vendees interest in said contract as assigned by instrument  
Dated: December 30, 1980  
Recorded: January 2, 1981 Book: M-81 Page: 74  
To: David J. Noonan and Galilee Noonan, husband and wife  
The obligation for which Buyer does not assume.

- 3) A Contract, including the terms and provisions thereof, a memorandum of which was

Dated: May 22, 1980  
Recorded: June 2, 1980 Book: M-80 Page: 9926  
Vendor: Eric C. Lewis and Beverly Lewis, husband and wife  
Vendee: David J. Noonan and Galilee Noonan, husband and wife  
The interest in which said Contract of Galilee Noonan was conveyed to David James Noonan by Bargain and Sale Deed recorded July 26, 1983 in Book M-83 at page 12151; which said Contract Seller agrees to perform and to pay from out of the proceeds of the instant contract.

STATE OF OREGON, )  
County of Klamath )

Filed for record at request of

on this 13th day of October A.D. 19 83  
at 10:49 o'clock A M, and duly  
recorded in Vol. M83 of Deeds  
page 17565

EVELYN BIEHN, County Clerk

By Lam Smith Deputy

Fee 24.00