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MTC 13012

## CONTRACT FOR THE SALE OF REAL PROPERTY

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THIS AGREEMENT made this day between JAMES R. MOFFIT and JUDITH A. MOFFIT, husband and wife, (hereinafter referred to as SELLERS) and KERRY L. LACKEY and TERESA N. LACKEY, husband and wife, (hereinafter referred to as BUYERS) WITNESSETH:

1. PRICE AND DESCRIPTION In consideration of the payments to be made as hereinafter provided and the performance of the covenants and agreements contained in this contract by BUYERS to be performed, SELLERS agree to sell and BUYERS agree to buy the following described real property, to-wit:

The E $\frac{1}{2}$  NE $\frac{1}{4}$  NW $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 25, Township 24 South, Range 8 East of the Willamette Meridian, Klamath County, OR

The purchase price for said real property is TWENTY ONE THOUSAND FIVE HUNDRED DOLLARS (\$21,500.00) and shall be paid as follows: BUYERS have heretofore paid the sum of FIVE HUNDRED DOLLARS (\$500.00) as earnest money and shall pay an additional TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00) upon execution of this agreement and an additional TWO THOUSAND DOLLARS (\$2,000.00) on or before November 1, 1983. The balance of SIXTEEN THOUSAND FIVE HUNDRED DOLLARS (\$16,500.00) together with interest on the said unpaid balance at the rate of 11% per annum commencing with the date of this contract, shall be amortized in monthly payments over a period of 10 years. Monthly payments shall be not less than TWO HUNDRED TWENTY SEVEN DOLLARS AND TWENTY NINE CENTS (\$227.29), including principle and interest, until November 1, 1993 at which time the contract will be paid in full. Said monthly payments shall be the 1st day of each and every month hereafter commencing with the 1st day of November 1983 until November 1, 1993.

2. BUYER'S PREPAYMENT PRIVILEGE BUYERS shall have the right to pay any installment or the entire balance in advance, or any amount in excess of the minimum amount herein provided. In case of advance payment of all or any part of the contract, an adjustment shall be made for interest not yet accrued. BUYERS shall not be in default of the contract so long as the aggregate amount paid at any time shall be equal to or exceed the amount otherwise required to be paid at that point in time under this contract.

3. ESCROW An escrow shall be established by the parties in PINE FOREST ESCROW, LAPINE, OREGON. In such escrow, with the escrow agent there shall be deposited a copy of this contract, a warranty deed executed by the SELLERS sufficient to convey when delivered the above described real property to BUYERS, and escrow instructions as required by said PINE FOREST ESCROW, sufficient to describe the escrow agents duties, and a purchaser's title insurance policy as hereinafter required.

The parties agree to execute such escrow instruction as the escrow agent requires in this matter.

All escrow charges including set up fees and collection fees and closing fees are to be shared  $\frac{1}{2}$  BUYERS and  $\frac{1}{2}$  SELLERS.

If BUYERS shall fail to pay an installment after the expiration of THIRTY (30) days after the due date thereof, the escrow agent is authorized to surrender to SELLERS, upon demand and without notice to BUYERS all of the documents specified in the preceding paragraphs, thereby terminating the escrow and this contract.

4. TITLE INSURANCE SELLERS shall furnish at their expense a Purchaser's Title Insurance Policy in the amount of the purchase price within 120 days from the date hereof insuring BUYERS against loss or damage sustained by them by reason of the unmarketability of SELLERS' title, or liens or encumbrances thereon, excepting matters contained in usual printed exceptions in such title insurance policies, easements, conditions and restrictions of record and encumbrances herein specified, if any. Within fifteen (15) days after receipt of the title insurance policy, BUYERS shall examine it and notify SELLERS of any defects in the SELLERS' title to the premises. BUYERS waives any defects not so noticed. SELLERS shall, within a reasonable time, correct all defects so noticed and not herein expressly excepted.

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"This instrument does not guarantee that any particular use may be made of the property described in this instrument. A buyer should check with the appropriate city or county planning department to verify approved uses."

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5. POSSESSION AND RESERVATION OF TITLE BUYERS shall have possession of the real property from this time forward, BUYERS shall continue to have possession of said property so long as they comply with the terms of this contract. Title to the real property above described and any improvements added thereto by BUYERS shall remain in SELLERS to secure the faithful performance of this contract, which shall be construed as a CONTRACT TO SELL and NOT as a contract of sale. Title shall pass upon delivery of deed as herein provided and not otherwise.
6. TAXES AND OTHER CHARGES SELLERS have paid the 1982-83 taxes on the premises. The 1983-84 taxes shall be pro-rated between the parties as of the effective date of this contract, and those taxes for the fiscal year accruing prior to this date shall be paid by SELLERS and those accruing for the fiscal year after this date shall be paid by the BUYERS. BUYERS shall pay all taxes, assessments and governmental charges hereafter accruing or levied against said property, commencing with the date of this contract, and shall hold SELLERS harmless therefrom. Said taxes, assessments or governmental charges shall be paid as the same become due and before the same or any part thereof becomes delinquent.
7. DEFERRED TAXES If the premises herein described, or any part thereof, have been classified for special assessment of unzoned farm land for prior tax years as disclosed by the records of the assessor of the county in which the lands are located, BUYERS have the option of electing to continue the special assessment; if BUYERS elect to continue the special assessment, BUYERS shall forthwith, and not later than thirty (30) days after the date of this contract, apply at the County Assessor's office for continue classification for special assessment as unzoned farm land. If any disqualification of the property should result and the property is subject to additional taxes and interest as a result and the property is subject to additional taxes and interest as a result of the disqualification, BUYERS shall pay all additional taxes and interest, and hold SELLERS harmless therefrom.
8. DAMAGE OR DESTRUCTION From this date, BUYERS assume the risk and hazard of all damage to or destruction of the premises, whether or not same was insured, and agree that such damage or destruction shall not release them from any obligation under this contract nor shall such damage constitute a failure of consideration for this contract and the agreements contained herein.
9. SELLERS RIGHT TO MAKE PAYMENT In the event that BUYERS fail to make payment on any amount due on liens, taxes, governmental charges or assessments or the charges for public utilities, then SELLERS shall have the right to make such payment or payments, without, however, any obligation to do so.  
In the event of the failure of BUYERS to make any payments referred to in the foregoing paragraph, if the same are made by SELLERS then, nevertheless, SELLERS shall have the right to consider the same as a breach of this agreement. If SELLERS choose not to consider same as a breach of this agreement, then the amount paid by SELLERS shall be added to the balance due under the terms of this agreement and shall be paid by BUYERS upon the next installment date in addition to the installment due at that time.
10. WAIVER Failure of SELLERS at any time to insist upon the strict performance by BUYERS of the provisions of this contract shall in no way affect SELLERS right to enforce the same, nor shall any waiver by SELLERS of any clause or of any other provision or any succeeding breach of the same or any other provision of this contract.
11. LIENS AND MORTGAGES There are no liens, mortgages, or other encumbrances on the premises.  
It shall be the obligation of BUYERS to keep the property free from all liens and mortgages except those consented by SELLERS in writing, first obtained.
12. REPRESENTATION BUYERS state that they have examined the said property and know the conditions and value thereof. They state that they enter into this contract relying upon their own inspection and knowledge of the property and not upon any representation or representations by SELLERS; and that SELLERS have made no promises to modify or improve the property in any way.



13. COVENANT TO MAINTAIN BUYERS shall not commit or suffer any waste of the property or the improvements thereon, and covenant and agree to maintain the premises in as good a condition as the same now is, and agrees to preserve the value thereof.

14. ASSIGNMENT BUYERS shall not have the right to assign, lease or sell this contract or the real property described herein or place any other persons in possession thereof without the written consent of SELLERS first obtained.

15. ENFORCEMENT EXPENSES In the event that any litigation arises between the parties concerning this contract or the terms or enforcement thereof or the possession or repossession of the property, the parties hereto agree that the prevailing party in any such litigation shall be entitled to recover, in addition to costs and disbursements as provided by law, a reasonable attorneys fee, both upon the trial thereof and upon any appeal from the trial court judgement or decree.

16. DEFAULT Time and strict performance are of the essence in this agreement. If BUYERS fail to make payments of the purchase price and taxes in accordance with the terms hereof, and their failure shall continue for more than thirty (30) days after the payment becomes due, BUYERS shall be deemed in default and SELLERS shall not be obligated to give notice to BUYERS of a declaration of said default and SELLERS shall have the rights and options as set forth hereafter. In the event that BUYERS shall fail to meet any of the other terms or covenants of this contract, SELLERS shall notify BUYERS in writing of the nature of such default and in the event that BUYERS fail to correct the same within thirty (30) days after the mailing of such notice, which shall be deemed to have been given by deposit in the mail of a certified letter containing said notice and addressed to BUYERS at their last known address, then in that event, SELLERS shall have the rights and options as set forth hereafter.

(a) To declare this contract null and void and to repossess themselves of the property above described, and all rights and interests hereby created or then existing in BUYERS as the result of this contract shall terminate and the above described property and all interest therein shall revert and revert in SELLERS without any other act by SELLERS to be performed and without any necessity for re-entry by SELLERS. In case of such situation, all payments theretofore made by BUYERS to SELLERS shall be retained by and belong to SELLERS as the agreed-upon and reasonable rental value of the real property and as liquidated damages for the breach of this agreement. SELLERS shall, in the event of such occurrence, have the immediate right to enter upon the property and take possession thereof, either personally, or by agent and to dispossess BUYERS or their tenants, employees, assigns, or anyone claiming under them, immediately and in any manner without being deemed guilty of trespass.

In such an event the escrow agent shall surrender to SELLERS, upon demand and without notice to BUYERS, all the documents held by said escrow agent thereby terminating the escrow.

(b) To declare the full unpaid balance of the purchase price, together with accrued interest, immediately due and payable and to commence an action or actions, suit or suits, to collect the same.

(c) To enforce the terms of this agreement specifically by a suit in equity.

(d) To foreclose this contract by strict foreclosure in equity.

(e) To invoke the aid of a court of law or equity to enforce any of the above rights.

17. EMINENT DOMAIN If the whole or any part of the premises described herein shall be taken by any organization authorized to condemn property, or if the whole or any part of said premises are condemned for any public purpose or easement, this contract shall remain in full force and effect. The award or payment of compensation including but not limited by this enumeration, severance damages, shall be divided between the parties as follows: The amount of the unpaid principal due on the contract at the time of award shall be divided by the sum hereinabove designated as the purchase price; the result of this division shall be a percentage figure; the total award is then multiplied by the percentage figure and the result will be a portion of the total award which, not to exceed the unpaid balance of the contract shall belong to SELLERS. Upon payment of the



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award by the condemning authority, that portion of the award belonging to SELLERS shall be applied to the payment of unpaid principal and interest hereunder, notwithstanding any restrictions, express or implied, herein against advance payment by BUYERS. The balance of the award shall belong to BUYERS.

18. SURVIVORSHIP. In the event of the death of either of the BUYERS or either of the SELLERS during the term of this contract, this contract shall be binding upon and inure to the benefit of the survivor of either the BUYERS or SELLERS.

IN WITNESS WHEREOF, THE PARTIES HAVE HEREUNTO AFFIXED THEIR SIGNATURES  
THIS 3<sup>rd</sup> DAY OF OCTOBER, 1983.

BUYERS:

Kerry L. Lackey

SELLERS:

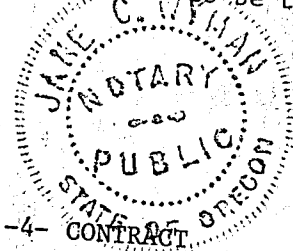
Teresa N. Lackey

James R. Moffit  
Judith A. Moffit

STATE OF OREGON )  
County of Deschutes ) ss.

October 3, 1983

Personally appeared before me the above named JAMES R. MOFFIT and JUDITH A. MOFFIT, KERRY L. LACKEY and TERESA N. LACKEY, and acknowledged the foregoing instrument to be their voluntary act and deed.



Jane C. Wyman  
Notary Public for Oregon  
My commission expires: 5-11-86

RETURN: MOUNTAIN TITLE CO.

"This instrument does not guarantee that any particular use may be made of the property described in this instrument. A buyer should check with the appropriate city or county planning department to verify approved uses."

STATE OF OREGON, )  
County of Klamath )  
Filed for record at request of

on this 18<sup>th</sup> day of Oct. A.D. 19 83  
at 1:30 o'clock PM, and duly  
recorded in Vol. M 83 of Deeds  
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EVELYN BIEHN, County Clerk

By [Signature] Deputy

Fee 16.00