

34375

Vol. 184 Page 4002 *mk.*

STEVENS NESS LAW PUBLISHING CO., PORTLAND, OR. 97204

THIS INDENTURE OF LEASE, made and entered into this 24th day of December 1984, by and between THE FIRST CHURCH OF GOD, an Oregon Non-Profit Corporation,

hereinafter called the lessor, and MICHAEL RADFORD and DONNA RADFORD, husband and wife, d/b/a RADFORD'S ALTAMONT NURSERY,

hereinafter called the lessee, of the lessee to be paid, kept and faithfully performed, the lessor does hereby lease, demise and let unto the said lessee those certain premises, as is, situated in the City of Klamath Falls, County of Klamath and State of Oregon, known and described as follows *mk. PWB*

The southerly approximately 75 feet of Lot 4, Block 4, FIRST ADDITION TO ALTAMONT ACRES, in the County of Klamath, State of Oregon. (It being the intention of the parties that Lessee be entitled to occupy and use that southerly portion of the premises presently fenced off, that being approximately one-half of said lot).

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To Have and to Hold the said described premises unto the said lessee for a period of time commencing with the 1st day of December, 1983, and ending at midnight on the 30th day of November, 1984, at and for a rental of \$ 250.00 for the whole of the said term payable in lawful money of the United States at 2802 Altamont Drive, City of Klamath Falls, State of Oregon, at the following times and in the following amounts, to-wit:

In advance, in one lump sum, payable upon execution hereof.

In consideration of the leasing of said premises and of the mutual agreements herein contained, each party hereto does hereby expressly covenant and agree to and with the other, as follows:

Return: *Appl. & Delly: Rose*
122 So. 5th St. - KFO.

ck
16.00

LESSEE'S
ACCEPTANCE OF
LEASEUSE OF
PREMISES

(1) The lessee accepts said letting and agrees to pay to the order of the lessor the rentals above stated for the full term of this lease, in advance, at the times and in the manner aforesaid.

(2a) The lessee shall use said demised premises during the term of this lease for the conduct of the following business:
Operation of Retail Plant Nursery and Landscaping Business

and for no other purpose whatsoever without lessor's written consent.

(2b) The lessee will not make any unlawful, improper or offensive use of said premises; he will not suffer any strip or waste thereof; he will not permit any objectionable noise or odor to escape or to be emitted from said premises or do anything or permit anything to be done upon or about said premises in any way tending to create a nuisance; he will not sell or permit to be sold any spirituous, vinous or malt liquors on said premises, excepting such as lessee may be licensed by law to sell and as may be herein expressly permitted.

(2c) The lessee will not allow the leased premises at any time to fall into such a state of repair or disorder as to increase the fire hazard thereon; he shall not install any power machinery on said premises except under the supervision and with written consent of the lessor; he shall not store gasoline or other highly combustible materials on said premises at any time; he will not use said premises in such a way or for such a purpose that the fire insurance rate on the building in which said premises are located is thereby increased or that would prevent the lessor from taking advantage of any rulings of any agency of the state in which said leased premises are situated or its successors, which would allow the lessor to obtain reduced premium rates for long term fire insurance policies.

(2d) Lessee shall comply at lessee's own expense with all laws and regulations of any municipal, county, state, federal or other public authority respecting the use of said leased premises.

UTILITIES (3) The lessee shall pay for all heat, light, water, power, and other services or utilities used in the above demised premises during the term of this lease.

REPAIRS AND IMPROVEMENTS (4a) The lessor shall not be required to make any repairs, alterations, additions or improvements to or upon said premises during the term of this lease, except only those hereinafter specifically provided for; the lessee hereby agrees to maintain and keep said leased premises in good order and repair during the entire term of this lease at lessee's own cost and expense, and to cause the same to be repaired or replaced during the term of this lease if the same should become damaged or destroyed to or upon said premises without the written consent of the lessor first being obtained.

(4b) The lessee shall not be required to make any repairs, alterations, additions or improvements to or upon said premises during the term of this lease, except only those hereinafter specifically provided for; the lessee hereby agrees to maintain and keep said leased premises in good order and repair during the entire term of this lease at lessee's own cost and expense, and to cause the same to be repaired or replaced during the term of this lease if the same should become damaged or destroyed to or upon said premises without the written consent of the lessor first being obtained.

(4c) The lessee shall not be required to make any repairs, alterations, additions or improvements to or upon said premises during the term of this lease, except only those hereinafter specifically provided for; the lessee hereby agrees to maintain and keep said leased premises in good order and repair during the entire term of this lease at lessee's own cost and expense, and to cause the same to be repaired or replaced during the term of this lease if the same should become damaged or destroyed to or upon said premises without the written consent of the lessor first being obtained.

LESSOR'S RIGHT OF ENTRY (5) It shall be lawful for the lessor, his agents and representatives, at any reasonable time to enter into or upon said demised premises for the purpose of examining into the condition thereof, or any other lawful purpose.

RIGHT OF ASSIGNMENT (6) The lessee will not assign, transfer, pledge, hypothecate, surrender or dispose of this lease, or any interest herein, or permit any other person or persons whomsoever to occupy the demised premises without the written consent of the lessor being first obtained in writing; this lease is personal to said lessee; lessee's interests, in whole or in part, cannot be sold, assigned, transferred, seized or taken by operation at law, or under or by virtue of any execution or legal process, attachment or proceedings instituted against the lessee, or under or by virtue of any bankruptcy or insolvency proceedings had in regard to the lessee, or in any other manner, except as above mentioned.

LIENS (7) The lessee will not permit any lien of any kind, type or description to be placed or imposed upon the building in which said leased premises are situated, or any part thereof, or the real estate on which it stands.

ICE, SNOW, DEBRIS (8) The lessee shall be responsible for the removal of ice, snow, debris, and other obstructions from the demised premises and the area immediately adjacent thereto, and shall keep the same in a safe and sanitary condition at all times during the term of this lease.

OVERLOADING OF FLOORS (9) The lessee shall not overload the floors of the building in which said leased premises are situated, and shall not permit any person or persons to overload the same, and shall not permit any person or persons to use the same for any purpose other than that for which the same were originally designed.

ADVERTISING SIGNS (10) The lessee shall not place or permit to be placed on the demised premises or on the building in which said leased premises are situated, any sign or signs of any kind, type or description, except as may be specifically provided for in this lease.

LIABILITY INSURANCE (11) The lessee further agrees at all times during the term hereof, at his own expense, to maintain, keep in effect, furnish and deliver to the lessor liability insurance policies in form and with an insurer satisfactory to the lessor, insuring both the lessor and the lessee against all liability for damages to person or property in or about said leased premises; the amount of said liability insurance shall not be less than \$ 100,000.00 for injury to one person, \$ 300,000.00 for property damage. Lessee agrees to and shall indemnify injuries arising out of any one accident and not less than \$ 10,000.00

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and hold lessor harmless against any and all claims and demands arising from the negligence of the lessee, his officers, agents, invitees and/or employees, as well as those arising from lessee's failure to comply with any covenant of this lease on his part to be performed, and shall at his own expense defend the lessor against any and all suits or actions arising out of such negligence, actual or alleged, and all appeals therefrom and shall satisfy and discharge any judgment which may be awarded against lessor in any such suit or action.

FIXTURES (12) All partitions, plumbing, electrical wiring, additions to or improvements upon said leased premises, whether installed by the lessor or lessee, shall be and become a part of the building as soon as installed and the property of the lessor unless otherwise herein provided.

LIGHT AND AIR

DAMAGE BY CASUALTY, FIRE AND DUTY TO REPAIR

(13) This lease does not grant any rights of access to light and air over the property.

(14) The lessor shall not be liable for loss arising out of damage to or destruction of the leased premises, or the building or improvement of which the leased premises are a part or with which they are connected, or the contents of any thereof, when such loss is caused by any of the perils which are or could be included within or insured against by a standard form of fire insurance with extended coverage, including sprinkler leakage insurance, if any. All such claims for any and all loss, however caused, hereby are waived. Such absence of liability shall exist whether or not the damage or destruction is caused by the negligence of either lessor or lessee or by any of their respective agents, servants or employees. It is the intention and agreement of the lessor and the lessee that the rentals reserved by this lease have been fixed in contemplation that each party shall fully provide his own insurance protection at his own expense, and that each party shall look to his respective insurance carriers for reimbursement of any such loss, and further, that the insurance carriers involved shall not be entitled to subrogation under any circumstances against any party to this lease. Neither the lessor nor the lessee shall have any interest or claim in the other's insurance policy or policies, or the proceeds thereof, unless specifically covered therein as a joint assured.

WAIVER OF SUBROGATION RIGHTS

(15) Neither the lessor nor the lessee shall be liable to the other for loss arising out of damage to or destruction of the leased premises, or the building or improvement of which the leased premises are a part or with which they are connected, or the contents of any thereof, when such loss is caused by any of the perils which are or could be included within or insured against by a standard form of fire insurance with extended coverage, including sprinkler leakage insurance, if any. All such claims for any and all loss, however caused, hereby are waived. Such absence of liability shall exist whether or not the damage or destruction is caused by the negligence of either lessor or lessee or by any of their respective agents, servants or employees. It is the intention and agreement of the lessor and the lessee that the rentals reserved by this lease have been fixed in contemplation that each party shall fully provide his own insurance protection at his own expense, and that each party shall look to his respective insurance carriers for reimbursement of any such loss, and further, that the insurance carriers involved shall not be entitled to subrogation under any circumstances against any party to this lease. Neither the lessor nor the lessee shall have any interest or claim in the other's insurance policy or policies, or the proceeds thereof, unless specifically covered therein as a joint assured.

EMINENT DOMAIN

(16) In case of the condemnation or appropriation of all or any substantial part of the said demised premises by any public or private corporation under the laws of eminent domain, this lease may be terminated at the option of either party hereto on twenty days written notice to the other and in that case the lessee shall not be liable for any rent after the date of lessee's removal from the premises.

FOR SALE AND FOR RENT SIGNS

(17) During the period of sixty days prior to the termination of said lease, the lessee will quit and deliver up said premises hereon may post on said premises or in the windows thereof signs of moderate size notifying the public that the premises are "for sale" or "for lease."

DELIVERING UP PREMISES ON TERMINATION

(18) At the expiration of said term or upon any sooner termination thereof, the lessee will quit and deliver up said premises and all future erections or additions to or upon the same, broom-clean, to the lessor or those having lessor's estate in the premises, peaceably, quietly, and in as good order and condition, reasonable use and wear thereof, of, damage by fire, unavoidable casualty and the elements alone excepted, as the same are now in or hereafter may be put in by the lessor.

ADDITIONAL COVENANTS OR EXCEPTIONS

(19) It is expressly understood and agreed between the parties hereto that either party may terminate this lease and the term hereof upon giving the other party written notice of intention to do so not less than sixty (60) days in advance of such termination. Upon properly giving such notice, this lease and the term hereof shall expire and come to an end on the date fixed in such notice, and any prepaid rents will be refunded to Lessee on the basis of \$10.00 per whole calendar month remaining on said lease, it being the intention of the parties to treat possession of the premises during any portion of a calendar month as possession for an entire month.

(20) At the expiration of the term specified in this lease, such term shall be renewed for a period of one (1) year thereafter upon the same terms and conditions as herein contained, provided, however, that the rental may be increased to a sum equal to one-half of the real property taxes paid on the premises by Lessor, such sum being rounded to the next highest twenty-five dollar (\$25.00) increment and provided further that such rental is paid prior to expiration of the term hereof.

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ATTACHMENT BANKRUPT DEFAULT

**ATTACHMENT
BANKRUPT
DEFAULT**

PROVIDED, ALWAYS, and these presents are upon these conditions, that (1) if the lessee shall be in arrears in the payment of said rent for a period of ten days after the same becomes due, or (2) if the lessee shall fail or neglect to do, keep, perform or observe any of the covenants and agreements contained herein on lessee's part to be done, kept, performed and observed and such default shall continue for ten days or more after written notice of such failure or neglect shall be given to lessee, or (3) if the lessee shall be declared bankrupt or insolvent according to law, or (4) if any assignment of lessee's property shall be made for the benefit of creditors, or (5) if on the expiration of this lease lessee fails to surrender possession of said leased premises, then and in either or any of said cases or events, the lessor or those having lessor's estate in the premises, may terminate this lease and, lawfully, at his or their option immediately or at any time thereafter, without demand or notice, may enter into and upon said demised premises and every part thereof and repossess the same as of lessor's former estate, and expel said lessee and those claiming by, through and under lessee and remove lessee's effects at lessee's expense, forcibly if necessary and store the same, all without being deemed guilty of trespass and without prejudice to any remedy which otherwise might be used for arrears of rent or preceding breach of covenant.

**HOLDING
OVER**

HOLDING OVER In the event the lessee for any reason shall hold over after the expiration of this lease, such holding over shall not be deemed to operate as a renewal or extension of this lease, but shall only create a tenancy from month to month which may be terminated at will at any time by the lessor.

**ATTORNEY
FEES AND
COURT COSTS**

which may be terminated at will at any time by the lessor.

ATTORNEY FEES AND COURT COSTS In case suit or action is instituted to enforce compliance with any of the terms, covenants or conditions of this lease, or to collect the rental which may become due hereunder, or any portion thereof, the losing party agrees to pay such sum as the trial court may adjudge reasonable as attorney's fees to be added to the prevailing party in such suit or action and in the event any appeal is taken from any judgment or decree in such suit or action, the losing party agrees to pay such further sum as the appellate court shall adjudge reasonable as prevailing party's attorney's fees on such appeal. The lessee agrees to pay and discharge all lessor's costs and expenses, including lessor's reasonable attorney's fees that shall arise from enforcing any provision or covenants of this lease even though no suit or action is instituted.

WAIVER

WAIVER Any waiver by the lessor of any breach of any covenant herein contained to be kept and performed by the lessee shall not be deemed or considered as a continuing waiver, and shall not operate to bar or prevent the lessor from declaring a forfeiture for any succeeding breach, either of the same condition or covenant or otherwise.

NOTICES

NOTICES Any notice required by the terms of this lease to be given by one party hereto to the other or desired so to be given, shall be sufficient if in writing contained in a sealed envelope, deposited in the U. S. Registered Mails with postage fully prepaid, and if intended for the lessor herein then it addressed to said lessor at 2802 Altamont Drive

Klamath Falls, Oregon 97603

Klamath Falls, Oregon 97603
5020 Shasta Way, Klamath Falls, Oregon 97603

lessee at 5020 Shasta Way, Klamath Falls, Oregon 97603.
Any such notice shall be deemed conclusively to have been delivered to the addressee thereof forty-eight hours after the deposit thereof in said U. S. Registered Mails.

HEIRS AND ASSIGNS

in said U. S. Registered Mails.

HEIRS AND ASSIGNS All rights, remedies and liabilities herein given to or imposed upon either of the parties hereto shall extend to, inure to the benefit of and bind, as the circumstances may require, the heirs, executors, administrators, successors and, so far as this lease is assignable by the term hereof, to the assigns of such parties.

In construing this lease, it is understood that the lessor or the lessee may be more than one person; that if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

IN WITNESS WHEREOF, the respective parties have executed this instrument in duplicate on this, the day and year first hereinabove written, any corporation signature being by authority of its Board of Directors.

Omna Jay Radford 1/24/84
Michael D. Radford 1/24/84

Phillip W. Dunton Chairman
of the Board of Deacons,
First Church of God

LESSSEES
STATE OF OREGON
County of Klamath

Personally appeared before me the above-named MICHAEL D. RADFORD and DONNA J. RADFORD, husband and wife, and acknowledged the foregoing instrument to be their voluntary act and deed.

Before me:

NOTARY PUBLIC FOR OREGON

My commission expires: 10/10/85

STATE OF OREGON)
County of Klamath)

County of Klamath)
Personally appeared before me the above-named Phillip W. Burton who,
being duly sworn ~~each~~ for himself, not one for the other, did say that the foregoing instrument was
signed and sealed in behalf of the First Church of God, a non-profit corporation by authority of its
Board of Directors, and each of them acknowledged said instrument to be its voluntary act and deed.

Before me

NOTARY PUBLIC FOR OREGON

My commission expires: 10/10/95

STATE OF OREGON: COUNTY OF KLAMATH:ss

STATE OF OREGON: COUNTY OF KLAMATH:ss
I hereby certify that the within instrument was received and filed for
record on the 13th day of March A.D., 1984 at 9:35 o'clock A.M.,
and duly recorded in Vol M84, of Deeds on page 4002.

EVELYN BIEHN, COUNTY CLERK

by: Pam Smith Deputy

Fee: \$ 16.00