

55460

K-38211

THIS CONTRACT, Made this 8th day of November, 1985, between

Tom Powley, Eldon Powley and Steve Powley,

and Carlyle B. Whitman

, hereinafter called the seller,

, hereinafter called the buyer,

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

The Northwesterly 35 feet of Lot 5 in Block 46 of First Addition to the City of Klamath Falls according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

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COUNTY OF KJMSWCU

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for the sum of Eighteen thousand five hundred and no/100 Dollars (\$18,500.00) hereinafter called the purchase price, in part payment of which the buyer assumes and agrees to pay a contract or mortgage (the word "mortgage" as used herein includes within its meaning a trust deed) now on said land (recorded in the Deed, Mortgage, Mineral and Records of said county in book M79 at page 5520 thereof, reference to which hereby is made) the unpaid principal balance of which is \$5,226.20, together with the interest hereafter to accrue on said contract or mortgage according to the terms thereof; the buyer agrees to pay the balance of said purchase price to the order of the seller at the times and in amounts as follows, to-wit: The balance of \$3,273.80 to be paid as follows:

The sum of \$200.00 is paid on the execution hereof (the receipt of which is hereby acknowledged by seller); and the Buyer agrees to pay the balance of \$3,073.80 at the time of closing, to-wit: November 8th, 1985.

All of said purchase price may be paid at any time; all of the said deferred payments shall bear interest at the rate of 10 per cent per annum from November 5th, 1985, until paid, interest to be paid monthly and * the minimum regular payments above required. Taxes on said premises for the current fiscal year shall be prorated between the parties hereto as of the date of this contract.

The buyer warrants to and covenants with the seller that the real property described in this contract is

*(A) primarily for buyer's personal, family, household or agricultural purposes.

The buyer shall be entitled to possession of said lands on November 15, 1985, and may retain such possession so long as he is not in default under the terms of this contract. The buyer agrees that at all times he will keep the buildings on said premises, now or hereafter erected, in good condition and repair and will not suffer or permit any waste or strip thereof; that he will keep said premises free from mechanic's and all other liens and save the seller harmless therefrom and reimburse seller for all costs and attorney's fees incurred by him in defending against any such liens; that he will pay all taxes hereafter levied against said property, as well as all water rents, public charges and municipal liens which hereafter lawfully may be imposed upon said premises, all promptly before the same or any part thereof become past due; that at buyer's expense, he will insure and keep insured all buildings now or hereafter erected on said premises against loss or damage by fire (with extended coverage) in an amount

not less than full insurable value. The company or companies satisfactory to the seller, with loss payable first to the seller and then to the buyer as their respective interests may appear and all policies of insurance to be delivered to the seller as soon as insured. Now if the buyer shall fail to pay any such liens, costs, water rents, taxes or charges or to procure and pay for such insurance, the seller may do so and any payment so made shall be added to and become a part of the debt secured by this contract and shall bear interest at the rate aforesaid, without waiver, however, of any right arising to the seller for buyer's breach of contract.

Seller also agrees that when said purchase price is fully paid and upon request and upon surrender of this agreement, he will deliver a good and sufficient deed conveying said premises in fee simple unto the buyer, his heirs and assigns, free and clear of encumbrances as of the date hereof and free of all encumbrances since said date placed, permitted or arising by, through or under seller, excepting, however, the said easements, restrictions, the said contract or mortgage and the taxes, municipal liens, water rents and public charges so assumed by the buyer and further excepting all liens and encumbrances created by the buyer or assigns.

And it is understood and agreed between said parties that time is of the essence of this contract, and in case the buyer shall fail to make the payments above required, or any of them, and the payments to become due on said contract or mortgage, principal and interest, or any of them, punctually within ten days of the time limited therefor, or fail to keep any agreement herein contained, 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, (3) to foreclose this contract by suit in equity, and in any of such cases, all rights and interests 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 revert in said seller without any act of re-entry, or any other act of said seller to be performed and without any right of the buyer of return, reclamation or compensation for moneys 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. And 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 the improvements and appurtenances thereon or thereto belonging.

The buyer further agrees that failure by the seller at any time to require performance by the buyer of any provision hereof shall in no way affect his right hereunder to enforce the same, nor shall any waiver by said 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.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$18,500.00.

In case suit or action is instituted to foreclose this contract or to enforce any of the provisions hereof, the buyer agrees to pay such sum as the court may judge reasonable as attorney's fees to be allowed plaintiff in said suit or action and if an appeal is taken from any judgment or decree of the trial court, the buyer further promises to pay such sum as the appellate court shall judge reasonable as plaintiff's attorney's fees on such appeal.

In construing this contract, it is understood that the seller or the buyer 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, said parties have executed this instrument 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.

TOM POWLEY
ELDON POWLEY

STEVE POWLEY
CARLYLE B. WHITMAN

IMPORTANT NOTICE: Before, by listing whichever phrase and whichever warranty (A) or (B) is not applicable, if warranty (A) is applicable, and if the seller is a creditor, as such word is defined in the Truth-in-Lending Act and Regulation Z, the seller MUST comply with the Act and Regulation by making required disclosures; for this purpose, use Stevens-Ness Form No. 1308 or similar unless the contract will become a first lien to finance the purchase of a dwelling in which event use Stevens-Ness Form No. 1307 or similar.

NOTE: The sentence between the symbols (A) and (B), if not applicable, should be deleted; see Oregon Revised Statutes, Section 93.030. (Notarial acknowledgment on reverse).

After Recording Return to: KCTC Collection # Tax Stmts to: Carlyle Whitman, 425 N. 5th, Klamath Falls, OR 97601

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After Recording Return to: KOTC Collection #

AFTER RECORDING RETURN TO
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 2250

..... a corporation,
and that the seal affixed to the foregoing instrument is the corporate seal
of said corporation; and that said instrument was signed and sealed in be-
half of said 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

(OFFICIAL
SEAL)

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