

78868

LAND SALE CONTRACT

THIS CONTRACT, made and entered into this 2nd day of JUNE, 1987, by and between DAVID S. MACIVOR and ZALE MACIVOR, husband and wife, hereinafter called Seller, and SHEILA J. THOMAS, hereinafter called Buyer (it being understood that the singular shall include the plural if there are two or more sellers and/or buyers).

W I T N E S S E T H:

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 legally described as follows, to-wit:

LOT 2 and the Southerly 35 feet of LOT 7 in BLOCK 5, ORIGINAL TOWN OF LINKVILLE, now City of Klamath Falls, according to the official plat thereof on the file in the office of the County Clerk of Klamath County, Oregon.

SUBJECT TO 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.

ALSO SUBJECT TO two certain encumbrances owing to Klamath First Federal Savings and Loan Association, which said obligations and encumbrances are not assumed by Buyer, but which are to be paid from out of the proceeds of the within agreement. The said encumbrances are more particularly described as follows:

(1) Trust Deed, including the terms and provisions thereof, executed by David S. MacIvor as grantors to William L. Sisemore, as trustee for Klamath First Federal Savings and Loan Association as beneficiary, dated July 1, 1985, recorded July 2, 1985, in Volume M85 page 10207, Mortgage records of Klamath County, Oregon, to secure the payment of \$42,075.00; and

(2) Trust Deed, including the terms and provisions thereof, executed by David S. MacIvor, as grantors to William Sisemore, as trustee for Klamath First Federal Savings and Loan Association as beneficiary, dated August 2, 1985, recorded August 5, 1985, in Volume M85 page 12290, Mortgage records of Klamath County, Oregon, to secure the payment of \$17,500.00.

ALSO SUBJECT TO a mortgage, including the terms and provisions thereof, executed by David S. MacIvor to C P National Corporation, dated November 4, 1985, recorded November 19, 1985, in Volume M85 page 18784, Mortgage records of Klamath County, Oregon, to secure the payment of \$4,000.00, which said obligation and encumbrance is not assumed by Buyer, but which is to be paid from out of the proceeds of the within agreement.

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THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES.

It is mutually agreed as follows:

1. **Possession:** Buyer shall be entitled to possession of the property as of the date hereof;
2. **Prepayment Privileges:** After the date hereof, Buyer shall have the privilege of increasing any payment or prepaying the entire balance provided for hereinafter with interest due thereon to the date of payment;
3. **Payment of Liens and Taxes:** 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 the 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 herein, 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 therefore;
4. **Insurance:** Buyer shall keep any buildings on said property insured against loss or damage by fire or other casualty in an amount not less than the full insurable value thereof with loss payable in 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; Buyer shall furnish Seller proof of such insurance coverage;
5. **Waste Prohibited:** Buyer agrees that all improvements now locate 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 cut or remove any timber, trees or shubbery without Seller's prior written consent. 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;
6. **Transfer of Title:** 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 provided hereinabove, together with a good and sufficient Bill of Sale or Certificate of Title as appropriate and will place said documents, together with one of these agreements, in escrow at KLAMATH COUNTY TITLE COMPANY, 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, instruct 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 documents to Buyer, but in case of default by Buyer said escrow holder shall, on demand, surrender said documents to Seller;

7. **Tax Payment Procedures:** Until a change is requested, all tax statements shall be sent to KLAMATH FIRST FEDERAL SAVINGS AND LOAN ASSOCIATION, P. O. Box 5270, Klamath Falls, Oregon 97601.

8. **Property Taken "As Is":** 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 an agent of Seller; and that Buyer takes said property and the improvements thereon in the condition existing at the time of this agreement with no express, implied or other warranties by Seller;

9. **Consent to Assignment:** Buyer shall not assign this agreement, his rights thereunder, or in the property covered thereby without the written consent of Seller. In the event the within described property, any part thereof, any interest therein (whether legal or equitable) is sold, agreed to be sold, conveyed, assigned or alienated by the Buyer without having first obtained the written consent or approval of the Seller, then, at the Seller's option, all obligations secured by this instrument, irrespective of the maturity date expressed herein, shall become immediately due and payable;

10. **Time of Essence:** It is understood that and agreed between the parties that time is of the essence of this contract;

11. **Default:** In case Buyer shall fail to make the payments aforesaid, or 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;

(a) To declare this contract null and void, after giving such notice as is then required by Oregon Revised Statutes; and/or

(b) To declare the whole unpaid principal balance of said purchase price with the interest thereon at once due and payable; and/or

(c) To withdraw said deed and other documents from the escrow and/or;

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

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 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 Buyer 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 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;

12. **Abandonment:** Should Buyer, while in default, permit the premises to become vacant for a period in excess of 20 days, Seller may take possession of same individually or by appointment of a receiver by self-help or by Court order 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;

13. **Attorney Fees:** 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;

14. **No Waiver:** 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;

15. **Binding on Successors:** 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;

16. **Existence of Prior Encumbrances:** Buyer and Seller understand that the property being conveyed by the within Land Sale Contract is subject to a certain encumbrance owing thereon to Klamath First Federal Savings and Loan Association, the terms and provisions of which said encumbrance may contain a restraint on alienation, or the requirement that Seller obtain the prior consent of Klamath First Federal Savings and Loan Association before any transfer or assumption of the said encumbrance is effective. Buyer and Seller further agree that they will attempt to obtain consent of Klamath First Federal Savings and Loan Association to entry by the parties into the within agreement. However, should the parties enter into the within agreement in the absence of such consent, Buyer specifically agrees that Buyer will indemnify and hold harmless Seller of and from any cost, expense, interest charged, payment required, or other reasonable requirement of Klamath First Federal Savings and Loan Association caused by or the result of entry of the parties into the within agreement.

17. **Terms of Payment:** The purchase price of the interest conveyed by the within instrument shall be the sum of NINETY-FIVE THOUSAND AND NO/100THS DOLLARS (\$95,000.00), payable as follows:

(a) The sum of TEN THOUSAND AND NO/100THS DOLLARS (\$10,000.00) to be payable to Seller upon closing, receipt of which sum is hereby acknowledged; and

(b) An additional credit afforded to the Buyer by virtue of compliance with Seller with Paragraph XXXII of a certain Lease of Business Premises/Option to Purchase Agreement dated the 7th day of ~~November~~ ^{October}, 1985; and

(c) The remaining principal sum shall be paid to Seller as follows:

(i) The property is presently subject to specific notes and trust deeds, which are more specifically described hereinabove, in favor of Klamath First Federal Savings and Loan Association, upon which the present principal balance is \$59,342.05, and no more, with interest paid to September 1, 1987, payable in installments of not less than \$706.33 per month, including principal, interest and taxes.

The Buyer agrees to pay all sums due on the said obligations, through the within escrow, promptly at the times required for said payments and to keep said obligations free from default. Should the Buyer for any reason permit said obligations to be or become in default, the Seller may pay any sums required to be paid by the Klamath First Federal Savings and Loan Association or otherwise to perform in accordance with such obligations, and the Seller shall be entitled to recover back all sums so paid by him from out of the sums next to become due on the purchase price pursuant to the terms of this contract.

Buyer and Seller agree that Klamath First Federal Savings and Loan Association may alter or change the monthly amount to be paid pursuant to the aforesaid obligations, because of changes in the real property taxes, or interest rate charged, and that Buyer shall be required to pay all such amounts, even as so changed, commencing with the payment due the 5th & 10th day of September, 1987, until the said obligations have been paid in full. It shall be the responsibility of Seller to notify the escrow agent and Buyer of any change in the payment amounts required to be made to Klamath First Federal Savings and Loan Association, and upon the next payment due from Buyer, Buyer shall be required to submit the changed payment amount to the escrow agent for transmittal to Klamath First Federal Savings and Loan Association.

(ii) The property is presently subject to a note and mortgage more specifically described hereinabove in favor of C P National Corporation, upon which the present principal balance is \$2,849.14, and no more, with interest thereon paid to the 25th day of September, 1987, payable in installments of not less than \$84.00 per month, including principal and interest.

The Buyer agrees to pay through escrow all sums due on said obligation promptly at the times required for said payments, and to keep said obligation free from default. Should the buyer for any reason permit said obligation to be or become in default, the Seller may pay any sums required to be paid to C P National Corporation, or otherwise to perform in accordance with

such obligation, and the Seller shall be entitled to recover back all sums so paid by him from the sums next to become due on the purchase price pursuant to the terms of this contract.

(iii) The then-remaining balance in the amount of \$ 19,208.81 shall be referred to as "Seller's Equity," the amount of which shall be computed by the escrow agent, and paid by Buyer in monthly installments in accordance with this Paragraph 17 of the within contract. The total of all payments made by Buyer shall be the sum of ONE THOUSAND TWO HUNDRED AND NO/100THS DOLLARS (\$1,200.00) per month. From the said sum, the escrow agent shall be empowered to pay the sums owing to Klamath First Federal Savings and Loan Association pursuant to Subparagraph 17(c)(i) hereinabove; then to pay the sums required to be paid to C P National Corporation pursuant to the terms of Subparagraph 17(c)(ii) hereinabove, with the remainder of the payment to be applied toward amortization and payment of "Seller's Equity," the unpaid balance of which shall bear interest at the rate of ten percent (10%) per annum on the unpaid principal balance, commencing the date of this agreement.

(iv) The escrow agent shall continue to receive payments in the amount of \$1,200.00 per month, until such time the "Seller's Equity" has been amortized and paid down to a level of approximately ONE THOUSAND AND NO/100THS DOLLARS (\$1,000.00). Upon the date that the "Seller's Equity" shall have been paid down to the said unpaid principal balance, the payments required to be made by Buyer shall be reduced so as to equal the amounts required to be paid to Klamath First Federal Savings and Loan Association and C P National Corporation (until each of the individual said obligations shall have been paid in full). Upon payment in full by Buyer of the obligations owing to C P National Corporation and Klamath First Federal Savings and Loan Association, the then remaining balance of "Seller's Equity" shall be fully due and payable.

18. **Late Payment Penalty:** In addition to any other remedies afforded to Seller herein, Seller shall be entitled to receive payment in the amount of SIXTY AND NO/100THS DOLLARS (\$60.00) in addition to the regularly scheduled payments set forth in Paragraph 17 hereinabove (\$1,200.00) as and for a late payment charge, should Buyer fail to make any payment required to be made hereunder within ten (10) days of the date due. Seller shall be required to notify both Buyer and Klamath County Title Company (or the successor collection/escrow agent) of the accrual of such late payment charge, which such charge shall be credited only as an additional charge to Buyer and not as a credit to either interest or principal.

19. **Distribution of Charges:** Buyer and Seller shall each be required to pay one-half (1/2) of all escrow fees, escrow collection charges, recording costs and legal fees (except pursuant to the provisions of Paragraph 13 hereinabove), and other charges incident to closing of the within transaction.

20. **Payment of Underlying Encumbrances and Escrow Funds Distribution:** It is understood by and between the parties that the real property being conveyed by the within instrument is encumbered by the mortgage to C P National Corporation more particularly described hereinabove, and the trust deeds and notes owing to Klamath First Federal Savings and Loan Association, more

particularly described hereinabove. It is agreed that the escrow holder named herein, or its successor, upon receipt of payments from Buyer, shall remit the required sum to be paid to C P National Corporation, and shall remit the sum required to be paid to Klamath First Federal Savings and Loan Association, until the said obligations have been paid in full. The escrow agent is not required to make principal and interest computations with respect to the said payments, but is only required to keep a record of the making thereof. The escrow agent shall be empowered to modify the required payments to be made in accordance with the requirements of the said Klamath First Federal Savings and Loan Association, and to accept the computations as provided by the said Klamath First Federal Savings and Loan Association, which said computations shall be utilized by the escrow agent in determining the amounts yet to be paid. Seller agrees that the proceeds from any such payment made by Buyer shall be utilized by Seller (and the named escrow agent) in payment of the aforesaid obligations, which Buyer does not assume.

IN WITNESS WHEREOF, the parties have caused this Land Sale Contract to be executed the day and year first hereinabove written.

SELLER:

David S. MacIvor
David S. MacIvor

Zale MacIvor
Zale MacIvor

David S. MacIvor
H&E ATT. IN FACT

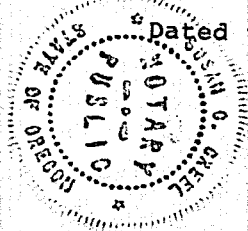
BUYER:

Sheila J. Thomas
Sheila J. Thomas

STATE OF OREGON/County of Klamath) ss.

PERSONALLY APPEARED BEFORE ME the above-named David S. MacIvor and Zale MacIvor, and acknowledged the foregoing instrument to be their voluntary act and deed.

Dated this 2nd day of September, 1987.



Susan C. Creel
NOTARY PUBLIC FOR OREGON

My Commission Expires: 6-21-88

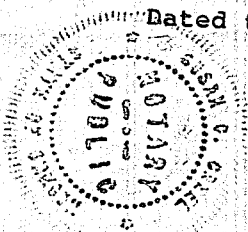
STATE OF OREGON/County of Klamath) ss.

PERSONALLY APPEARED BEFORE ME the above-named SHEILA J. THOMAS, and acknowledged the foregoing instrument to be her

voluntary act and deed.

15975

Dated this 2nd day of September, 1987.



Susan C. Creel
NOTARY PUBLIC FOR OREGON

My Commission expires: 6-21-88

STATE OF OREGON/County of Klamath) ss.

Personally appeared before me the above-named David S. MacIvor, who, being duly sworn, did say that he is the attorney in fact for Zale MacIvor and that he executed the foregoing instrument by authority of an in behalf of said principal; and he acknowledge said instrument to be the act and deed of said principal.

My Commission expires: 6-21-88

Before me:

Susan C. Creel

GRANTORS NAME AND ADDRESS:

David S. MacIvor and Zale MacIvor
7649 Booth Road
Klamath Falls OR 97603

GRANTEES NAME AND ADDRESS:

Sheila J. Thomas
2135 Applegate
Klamath Falls, Oregon

AFTER RECORDING, RETURN TO:

KCTC - collection

Until a Change is Requested,
Tax Statements Should be Sent
To:

Sheila J. Thomas
125 Pine Street
Klamath Falls, Oregon 97601

STATE OF OREGON)

County of Klamath)

ss.

I certify that the within instrument was received for record on the 3rd day of September, 1987, at 10:14 o'clock A.M., and recorded in Book MS7 on Page 15968 or as File Reel Number 78868, Record of Deeds of said County.

WITNESS my hand and seal of County affixed.

Evelyn Biehn, County Clerk
Recording Officer

By: Sam Smith
Deputy

\$33.00