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MT 18835-L

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LAND SALE CONTRACT

THIS AGREEMENT, made and entered into this 21st day of October, 1987, by and between Philip E. Tout and Margie R. Tout, husband and wife, hereinafter referred to as Seller, and Philip J. Andrews, hereinafter referred to as Buyer.

W I T N E S S E T H :

That the Seller, for and in consideration of the sum of \$12,000.00 to be paid at the times and in the manner following, and the full, faithful and complete performance by Buyer hereby agrees to sell and convey unto Buyer, and Buyer hereby agrees to purchase from Seller, all Seller's right, title and interest in and to that tract of land, and the improvements thereon, legally described as follows:

~~AND RT. MT~~
Lot 21 ~~in~~ the North 1/2 of Lot 20, Block 30,
Klamath Falls 2nd Addition, in Klamath Falls,
Klamath County, Oregon.

Purchase Price and Terms:

The purchase price of this property, which Buyer agrees to pay, shall be the sum of \$12,000.00, payable as follows:

- (a) The balance of \$12,000.00 shall be paid in monthly installments of not less than \$112.00 per month, including interest at the rate of nine and one-half (9 1/2%) per cent per annum, with the first of such monthly payments to be due and payable on or before the 21st day of November, 1987, and a like payment on or before the 21st day of each month thereafter, until the entire outstanding balance, including interest, is paid in full.

Interest Provision:

Interest on all unpaid balances shall commence on the 21st day of October, 1987, which is the closing date of this transaction.

Prepayment:

Buyer shall have the privilege at any time during the life of this contract to pay off the entire remaining balance due thereon, plus accrued interest, without any prepayment penalty. However, any amounts prepaid shall not suspend Buyer's obligation to make the regular monthly payments required under this contract.

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Taxes:

Real property taxes have been prepaid by Seller up through June 30, 1988, with an appropriate adjustment in the sale price already being made. Buyer agrees to pay when due all taxes and assessments which are hereafter levied against the property and to keep the property free from all public, municipal and statutory liens which may be hereafter lawfully imposed upon the property. Buyer shall provide Seller annually with a receipt evidencing full payment of taxes.

Fire Insurance

Buyer agrees and promises to keep said buildings and/or improvements on the premises insured, including fire and extended coverage, in the maximum insurable value, with loss payable to the parties hereto as their interest appears at the time of loss. Seller hereby grants to Buyer the right to use such insurance proceeds for immediate rebuilding of the burned premises, and if not so used, all said proceeds shall be paid to Seller. It is understood that any amount received by Seller under said insurance in payment of a loss shall be applied to the unpaid balance(s) of the purchase price and shall reduce said unpaid balance(s) of the purchase price to the extent of the amount of the insurance payment received by Seller. All uninsured losses shall be borne by Buyer.

Possession:

Buyer shall be entitled to possession of the property as of October 21, 1987, which is the closing date of this transaction.

Maintenance and Improvements:

Buyer shall keep all buildings and other improvements now existing or which shall hereafter be placed on the property in good condition and repair and shall not commit or suffer any waste of the property nor make any substantial improvements or alterations which reduce the value of the property for security purposes. Buyer shall comply with all laws, ordinances, and regulations applicable to the use or occupancy of the property. All improvements and alterations to the property shall be completed in a workmanlike manner.

Covenant of Title:

Seller covenants that Seller is the owner of good and marketable title to the property, free of all liens and encumbrances except:

- (1) Liens, easements, restrictions and reservations of record.

Title Insurance:

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Seller shall furnish, at Seller's expense, a Buyer's Title Insurance Policy in the amount of \$12,000.00 within ten (10) days from the date of the closing of this agreement, insuring Buyer against loss or damage sustained by reason of the unmarketability of Seller's title to the property, liens or encumbrances thereon, save and except matters contained in the usual printed exceptions in such title insurance policies, and encumbrances herein specified, if any.

Seller's Right to Make Required Payments:

In the event Buyer shall fail to pay when due any amounts required to be paid under this agreement, Seller may pay any or all amounts. If Seller makes any such payments, the amounts thereof shall be added to the contract balance on the date such payments are made by Seller and such amounts shall bear interest at the same rate as provided above from the date they are so added to the purchase price.

Escrow Provisions:

The closing of this transaction shall be at Mountain Title Company, Klamath Falls, Oregon. The escrow fee for closing this transaction shall be paid by Buyer.

A copy of this contract and a SPECIAL WARRANTY DEED executed by Seller conveying the property to Buyer free and clear of all encumbrances, except for liens easements, rights, restrictions and reservations of record as of date of execution, shall be placed in escrow for collection at Mountain Title Company, Klamath Falls, Oregon.

All sums paid to Seller under the terms of this contract shall be paid through the collection escrow and the escrow agent shall disburse the net proceeds in accordance with the escrow instructions. The collection set up fee shall be paid by Buyer. The monthly collection fee shall be paid by Buyer. The attorney fees for preparation of this contract shall be paid by Seller.

The special warranty deed shall be delivered to Buyer or Buyer's successor upon payment in full of the contract balance, plus accrued interest, and upon the full compliance by Buyer with all other terms of this agreement.

Default:

Time is of the essence of this contract. A default shall occur if:

- (a) Buyer fails to make any payment within ten (10) days after it becomes due. Notice to Buyer of said default in payment shall not be required.
- (b) Buyer fails to perform any other obligation imposed by this contract and does not correct such failure within thirty (30) days after mailing of written notice from Seller specifying the manner in which Buyer is in default.
- (c) Buyer becomes insolvent, a receiver is appointed to take possession of all or a substantial part of Buyer's properties. Buyer makes an assignment for the benefit of creditors or files a voluntary petition in bankruptcy, or Buyer is the subject of an involuntary petition in bankruptcy which is not dismissed within ninety (90) days. If Buyer consists of more than one person or entity, the occurrence of any of these events as to any one such person or entity shall constitute a default hereunder.

In the event of a default, Seller may take any one or more of the following steps:

- (a) Declare the entire balance of the purchase price and interest immediately due and payable.
- (b) Foreclose this contract by suit in equity.
- (c) Specifically enforce the terms of this contract by suit in equity.

The remedies provided above shall be nonexclusive and in addition to any other remedies provided by law.

Notice:

All notices given by the parties under this contract shall be in writing and shall be effective upon receipt or fifteen (15) days after mailing, whichever is earlier. All notices shall be mailed to the parties via certified mail, return receipt requested at the following addresses or to a new address upon mailing of proper notice.

Seller:
Philip E. and Margie R. Tout
P.O. Box 1289
Florence, OR 97439

Buyer:
Philip J. Andrews
1829 Lancaster Street
Klamath Falls, OR 97601

Representations:

The Buyer certifies that this contract of purchase is accepted and executed on the basis of Buyer's own examination and personal knowledge of the property and opinion of the value thereof, that no attempt has been made to influence Buyer's judgment, that no representations as to the condition or repair of said property has been made by Seller or by any agent of Seller; that no agreement or promise to alter, repair or improve said property has 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. Buyer acknowledges that this contract has been prepared by Seller's attorney, and Buyer has entered into this agreement on the basis of Buyer's independent judgment or upon the advice of Buyer's own legal counsel.

Complete Agreement & Modification:

This instrument contains the entire agreement between the parties and no statement, promises or inducements made by either party or agent of either party that is not contained in this written contract shall be valid or binding in any manner whatsoever. This contract may not be enlarged, modified or otherwise altered except in writing signed by the parties with the same formalities as this instrument.

Prior Agreements:

This document is the entire, final and complete agreement of the parties pertaining to the sale and purchase of the property, and supersedes and replaces all written and oral agreements heretofore made or existing by and between the parties or their representatives insofar as the property is concerned.

Restrictions on Assignment:

It is acknowledged that Seller and Buyer share the special relationship of Grandfather and Grandson. Seller is entering into this agreement based solely upon that special relationship and therefore Buyer shall not assign, subcontract or transfer in any manner, voluntarily or involuntarily, any rights in this contract, or the property, without the prior written consent of Seller. Consent by Seller to one transfer shall not constitute consent to other transfers or a waiver of this section. Any attempted assignment in violation of this provision shall be void and of no effect with respect to Seller. Buyer agrees to pay Seller's reasonable attorney's fees concerning review of Buyer's proposed sale, assignment, subcontract or transfer.

Successor Interests:

The covenants, provisions, terms and conditions of this agreement shall extend to and be binding upon and inure to the benefit of the heirs, administrators, executors, assigns or other successors in interest of the parties hereto; provided, however, that nothing contained in this paragraph shall alter any restrictions hereinabove contained.

Waiver of Rights:

Failure by Seller at any time to require full and complete performance by Buyer of any of the provisions of this agreement shall in no way affect Seller's rights hereunder to enforce the same, nor shall any waiver by Seller of any breach hereof be held to be a waiver of any succeeding breach, or a waiver of this non-waiver clause.

Attorney Fees:

The Buyer and Seller expressly agree that in any suit or action arising directly or indirectly out of this agreement, or to enforce any of the provisions of this agreement, or to rescind, cancel, modify or amend this agreement, including any appeal in any such suit or action, the prevailing party shall be entitled to reasonable attorney's fees, as determined by the court, together with costs and disbursements therein.

Number, Gender and Captions:

As used herein the singular shall include the plural, and the plural the singular. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of this contract.

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.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year first above written.

SELLER:

Philip E. Tout
Philip E. Tout

Margie R. Tout
Margie R. Tout

BUYER:

Philip J. Andrews
Philip J. Andrews

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STATE OF OREGON)
County of Klamath) ss.

On the 21st day of Oct, 1987 personally appeared before me the above named Philip E. Tout and Margie R. Tout, husband and wife, and acknowledged said instrument to be their voluntary act and deed.

Linda Stelle
Notary Public for Oregon
My Commission Expires: 7/13/89

STATE OF OREGON)
County of Klamath) ss.

On the 21st day of Oct, 1987, personally appeared before me the above named Philip J. Andrews, and acknowledged the foregoing instrument to be his voluntary act and deed.

Linda Stelle
Notary Public for Oregon
My Commission Expires: 7/13/89

*Return:
Mountain Title*

*Tapes:
Philip J. Andrews
1829 Lancaster
Klamath Falls, Or
97601*

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STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Mountain Title Company the 22nd day of October A.D., 19 87 at 3:51 o'clock P M., and duly recorded in Vol. M87 of Deeds on Page 19117.

FEE \$35.00

Evelyn Biehn, County Clerk
By *Adam Smith*