

MTC-19701 K

LAND SALE CONTRACT/CONDITIONAL SALE CONTRACT
AND SECURITY AGREEMENT

THIS CONTRACT, made and entered into this 28th day of June, 1988, by and between MARK ALLEN HEIKELL and KATRINA FAYE HEIKELL, Husband and Wife, hereinafter called Seller, and HOWARD A. MCPHEARSON 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:

Lot 7, in Block 21, Tract 1005, FOURTH ADDITION TO KLAMATH RIVER ACRES, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

TOGETHER WITH a certain 1983, 14' x 66', SANDPOINT Mobile Home, bearing VIN# ORFL1AD14481911.

TOGETHER WITH the interest of Sellers in a certain well agreement, subject to the terms and provisions thereof, as created by instrument recorded September 1, 1983 in Volume M83, at page 14875, Microfilm Records of Klamath County, Oregon.

SUBJECT TO: Reservations as contained in plat dedication, to-wit: "Subject to a 20 foot building setback from all street lines."

ALSO SUBJECT TO: Well Agreement, subject to the terms and provisions thereof, as created by instrument recorded September 1, 1983 in Volume M83 at page 14875, Microfilm Records of Klamath County, Oregon.

ALSO SUBJECT TO: Real Estate Contract, including the terms and provisions thereof:

Dated: June 24, 1985

Recorded: July 19, 1985

Volume: M85, page 11369, Microfilm Records of Klamath County, Oregon.

Vendor: Klamath River Acres of Oregon, Ltd.

Vendee: Mark Allen Heikell and Katrina Faye Heikell, which Vendee does not assume,

but which is to be paid from out of the proceeds in payment of the within Land Sale Contract/Conditional Sale Contract and Security Agreement.

ALSO SUBJECT TO: A certain Promissory Note and Security Agreement constituting an encumbrance on the Mobile Home referred to herein, owing to Western Savings, which said obligation Vendee does not assume, but which the parties agree shall be paid from out of the proceeds in payment of the within Land Sale Contract/Conditional Sale Contract and Security Agreement.

ALSO 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.

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ALSO SUBJECT TO: rights of the public in and to any portion of the herein described premises lying within the limits of streets, roads or highways.

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 shrubbery without Sellers 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 Mountain Title Company, 407 Main Street, Klamath Falls, Oregon, 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 the address designated by Buyer hereinafter. Buyer shall be required to pay the same and provide proof of such payment to Seller within thirty (30) days of the date of mailing of the said tax statement by the County Tax Collector.

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 Buyer has made a personal inspection of the property so as to determine its acceptability, and has personally researched and is satisfied with the ability to obtain access to the property; 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;

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. Such consent shall not be unreasonably withheld.

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 revest 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. **Purchase Price and Payments:** The purchase price for the interest conveyed is the sum of THIRTY-ONE THOUSAND FIVE HUNDRED AND NO/100THS DOLLARS (\$31,500.00) payable as follows:

(a) Buyer shall pay an initial payment in the sum of THREE THOUSAND AND NO/100THS DOLLARS (\$3,000.00); and

(b) An additional portion of the principal shall be paid to Seller as follows:

(i) The property is presently subject to a certain Real Estate Contract dated June 24, 1985, referred to hereinabove, on which certain sums are payable to Klamath River Acres of Oregon, Ltd., upon which the present principal balance is \$15,675.71, and no more, with interest thereon paid to June 1, 1988, which said sums are payable in installments of not less than \$240.92, including interest on all unpaid balances at the rate of 12% per annum. x
Mutt
RKF
H.C.M.

The Buyer agrees to pay all sums due on said obligation through the escrow to be established at Mountain Title Co. of Klamath County, which said payment shall be made 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, Seller may pay any sums required to be paid by Klamath River Acres of Oregon, Ltd., or its successor in interest, or otherwise to perform in accordance with such obligations, and the Seller shall be entitled to add all sums so paid by him to the unpaid balance of the within Land Sale Contract/Conditional Sale Contract and Security Agreement. Sellers' option to add back shall in no way affect Sellers' ability

to declare a default in accordance with paragraph 11 hereinabove.

(ii) The property is presently subject to a Note and Security interest owing to Western Savings (encumbering the Mobile Home to be conveyed hereby) upon which the present principal balance is \$8,456.17 and no more, with interest thereon paid to May 20, 1988, which said sum is payable in monthly installments of not less than \$158.84, together with interest on all unpaid balances at the rate of 15.25%.

The Buyer agrees to pay all sums due on said obligation through the escrow to be established at Mountain Title Co. of Klamath County, which said payment shall be made 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, Seller may pay any sums required to be paid by Western Savings, or it's successor in interest, or otherwise to perform in accordance with such obligations, and the Seller shall be entitled to add all sums so paid by him to the unpaid balance of the within Land Sale Contract/Conditional Sale Contract and Security Agreement. Sellers' option to add back shall in no way affect Sellers' ability to declare a default in accordance with paragraph 11 hereinabove.

(iii) The remaining balance (referred to as "Seller's equity") in the amount of \$4,368.12 shall be payable by Buyer to Seller through the escrow established at Mountain Title Company of Klamath County in monthly installments in the sum of \$70.74, determined as follows:

Total Initial Payment Required to be made by Buyer into Escrow:.....	\$479.50	x MANT
LESS: ^{MANT} one-half escrow collection fee:.....	\$475.00	KPH HAM
	9.00	x MANT
	4.50	KPH HAM
LESS: Payment to Klamath River Acres of Oregon, Ltd.:.....	-240.92	
LESS: Payment to Western Savings:.....	-158.84	
REMAINING PROCEEDS PAYABLE TO SELLERS IN PAYMENT OF "SELLER'S EQUITY":.....	\$ 70.74	

The remaining balance of "Sellers' Equity" shall bear interest at the rate of 10% per annum. Buyer shall be required to make the first of such required payments (\$475.00) commencing with the 18th day of July, 1988, with a further and like payment payable the 18th day of each and every month thereafter, until any of said obligations shall have been paid in full. Upon payment in full of "Sellers' Equity", Buyer shall have the option to reduce the gross payment required (\$475.00) by the amount of the monthly payment allocated to payment of "Sellers' Equity".

(iv) Buyer and Sellers each agree that the monthly payment required herein (\$475.00) may be increased or decreased, should the escrow collection charges of Mountain Title Company of Klamath County (or it's successor) (now \$9.00) be modified, in order that Buyer and Seller shall share equally the amount of such charges.

17. **Escrow Funds Distribution:** It is understood by and between the parties that the real property being conveyed by the within instrument is encumbered by certain obligations, more particularly described herein, owing to Klamath River Acres of Oregon, Ltd., and Western Savings. It is agreed that the escrow holder named herein, or its successor, upon receipt of payments from Buyer, shall remit the same to the order of such encumbrance holders (or their successors) 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 should there be a change in the monthly escrow collection fee, so

as to reflect that Buyer and Seller shall each pay one-half of such fee. Seller agrees that the proceeds from any payments made hereunder by Buyer shall be utilized by Seller (and the named escrow agent) in payment of the aforesaid obligations, which Buyer does not assume.

18. Inclusion of Personal Property: It is agreed between Buyer and Seller that the property conveyed by the within Land Sale Contract/Conditional Sales Contract and Security Agreement includes a certain Mobile Home described hereinbefore, which said personal property items constitute an improvement to the real property conveyed by the within instrument. Buyer and Seller agree that Seller shall retain title to the said personal property items until the Land Sale Contract has been paid in full.

19. Late Payment Penalty: In addition to any other remedy afforded Seller herein, Seller shall be entitled to receive payment in the amount of FORTY-SEVEN AND 50/100THS DOLLARS (\$47.50), in addition to the regularly-scheduled payments set forth in paragraph 16 hereinabove as and for a late payment penalty, should Buyer fail to make any payment required to be made hereunder within fifteen (15) days of the day due. Seller shall be required to notify both Buyer and the escrow agent named herein (or its successor) 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;

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

SELLER:

Mark Allen Heikell
Mark Allen Heikell

Katrina Faye Heikell
Katrina Faye Heikell

BUYER:

Howard A. McPhearson
Howard A. McPhearson

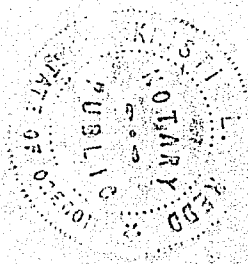
Howard A. McPhearson

STATE OF OREGON/County of Klamath)ss:

PERSONALLY APPEARED BEFORE ME the above-named MARK ALLEN HEIKELL and KATRINA FAYE HEIKELL, and acknowledged the foregoing Land Sale Contract to be their voluntary act and deed.

DATED this 28th day of June, 1988.

Christie G. Redd
NOTARY PUBLIC FOR OREGON
My Commission Expires: 11/16/91



STATE OF OREGON/County of Klamath)ss.

PERSONALLY APPEARED BEFORE ME the above-named HOWARD A. McPHEARSON and acknowledged the foregoing Land Sale Contract to be his voluntary act and deed.

DATED this 29th day of June, 1988.

Kristi L. Redd
NOTARY PUBLIC FOR OREGON
My Commission Expires: 11/16/91

GRANTOR'S NAME AND ADDRESS
Mark & Katrina Heikell
12715 NE 120th Apt. C-11
Kirkland, WA 98034

GRANTEE'S NAME AND ADDRESS
Howard A. McPhearson
P.O. Box 471
Keno, OR 97627

AFTER RECORDING, RETURN TO:
MOUNTAIN TITLE COMPANY OF KLAMATH COUNTY
407 Main Street
Klamath Falls, OR 97601

UNTIL A CHANGE IS REQUESTED
TAX STATEMENTS SHOULD BE
SENT TO:
SAME AS GRANTEE ABOVE

STATE OF OREGON/County of Klamath)ss:
I CERTIFY that the within instrument
was received for record on the 1st
day of July, 1988 at 4:20
o'clock P.M. and recorded in Book
M88 on Page 10400 or as File/Reel
number 88862, Records of Deeds of
said County.
WITNESS MY HAND AND SEAL OF COUNTY
AFFIXED.

Evelyn Biehn County Clerk
Recording Officer
By: Pauline Mullender

Fee \$38.00