

Aspen Title #01033262

LAND SALE CONTRACT

THIS CONTRACT is made and entered into this 11th day of April, 1989, by and between LUMBER PRODUCTS, an Oregon corporation, of Portland, Oregon, (hereinafter called the "SELLER"), and OLIVER R. SPIRES and DIANNE E. SPIRES, husband and wife, of Klamath Falls, Oregon, (hereinafter called the "BUYER");

W I T N E S S E T H :

WHEREAS SELLER is the owner of certain real property in Klamath Falls, Oregon, commonly known as 721 Broad Street, Klamath Falls, Oregon, together with improvements thereon; and

WHEREAS the SELLER has agreed to sell and the BUYER has agreed to buy the above mentioned real property together with the improvements thereon;

NOW, THEREFORE, based upon the above captioned premises and the conditions and covenants contained herein, it is hereby agreed as follows:

1. PROPERTY DESCRIPTION: SELLER agrees to sell to BUYER and BUYER agrees to buy from SELLER the following real property and all improvements thereon located in the City of Klamath Falls, County of Klamath, State of Oregon, to wit:

Lots 21, 22, 23, 24, and 25, Block 17, SECOND RAILROAD ADDITION TO THE CITY OF KLAMATH FALLS, in the County of Klamath, State of Oregon.

2. PURCHASE PRICE: BUYER agrees to pay as the total purchase price for the property the sum of One Hundred Fifty Thousand and No/100 Dollars (\$150,000.00).

3. METHOD OF PAYMENT: The purchase price specified in paragraph 2 above shall be paid by the BUYER as follows:

(a) The sum of One Thousand and No/100 Dollars (\$1,000.00) which has previously been paid as earnest money, and the sum of Twenty-Four Thousand and No/100 Dollars (\$24,000.00) which is to be paid at closing, the total of which constitutes the down payment.

(b) The remaining balance of \$125,000.00 shall bear interest at the rate of 12% per annum and shall be paid in monthly installments of not less than \$1,793.39. The first installment shall be due on or before May 15, 1989, and a like sum shall be due on or before the same day of each month

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thereafter until the entire purchase price, including principal and interest, is paid in full. If not sooner paid, all principal and interest shall be due on the date not more than 120 months from the date of closing.

(c) All payments shall be credited first to accrued and unpaid interest with the balance of each payment being credited to unpaid principal.

(d) BUYER shall have the privilege of increasing any monthly payment or prepaying the whole consideration at any time. Any additional payments shall not excuse BUYER from making the regular monthly payments provided for in this contract until the remaining balance has been paid in full.

(e) All payments to SELLER shall be sent to the attention of Larry Thompson at Lumber Products, 2116 N.W. 20th, Portland, Oregon 97209.

(f) In the event BUYER fails to pay, when due, any amounts required of BUYER to be paid to third parties hereunder (for such items as insurance and taxes), SELLER may pay any or all of such amounts. If SELLER makes any such payments, the amounts thereof shall be immediately due and payable. Until paid, such amounts shall be secured by this contract and shall bear interest at the rate of 12% per annum. The election of SELLER to make any payments pursuant to this paragraph shall not constitute a waiver of the right of SELLER to declare BUYER in default of this contract.

4. PRORATIONS:

(a) Except as otherwise provided herein, all items to be prorated shall be prorated as of the date of closing.

(b) All taxes levied against the property for the current tax year shall be prorated between SELLER and BUYER as of the date of closing. BUYER agrees to pay all taxes and assessments which are hereafter levied against the property and to provide SELLER with proof of prompt payment within ten (10) days after payment. BUYER shall pay property tax assessments in full on or before November 15 of each year.

5. LIENS: BUYER shall keep the property free from all public, municipal, and statutory liens which may be hereafter imposed upon the property.

6. POSSESSION: BUYER shall be entitled to possession of the property from and after the date of closing, and may retain possession so long as BUYER is not in default under the

terms of this contract, provided, however, that SELLER and the agents of the SELLER may enter upon the property at reasonable times for the purpose of inspecting the property.

7. TITLE INSURANCE: At closing, SELLER shall purchase a title insurance policy in the amount of \$150,000.00 insuring BUYER against loss or damage sustained by BUYER due to unmarketability of SELLER'S title in the property, or liens or encumbrances thereon, excepting matters contained in the usual printed exceptions in such title insurance policies, and exceptions of record. Said policy of title insurance shall be delivered to BUYER within due course after closing.

8. MAINTENANCE: Starting with the date of possession and thereafter at all times during the term of this contract, BUYER shall, with respect to the property, do the following:

(a) Keep all buildings, other improvements and landscape now existing or which shall hereafter be placed on the property, in good condition and repair and not permit any waste or removal thereof, make any substantial improvements or alterations without the prior written consent of SELLER, nor remove or demolish any buildings or trees.

(b) Promptly comply with all laws, ordinances, regulations, directions, rules and requirements of all governmental authorities applicable to the use or occupancy of the property, and in this connection promptly make all required repairs, alterations and additions.

(c) Indemnify and defend SELLER from any claim, loss or liability arising out of or related to any activity of BUYER on the property or any condition of the property.

9. INSURANCE:

(a) Starting with the date of possession, and thereafter at all times during the term of this contract, BUYER shall keep all improvements now existing or which shall hereafter be placed on the property insured against fire, destruction and other casualty through a standard policy of insurance with extended coverage and endorsements. The policy shall be written to cover not less than eighty percent (80%) of the full replacement value, but not less than \$125,000, with loss payable to SELLER and BUYER as their respective interests may appear, and certificates evidencing the policy shall be delivered to the SELLER and shall contain a stipulation providing that coverage will not be cancelled or diminished without a minimum of ten (10) days written notice to SELLER. In the event of loss, BUYER shall

give immediate notice to SELLER. SELLER may make proof of loss if BUYER fails to do so within fifteen (15) days of the casualty.

(b) In the event of loss and subject only to the valid demands of prior encumbrances, SELLER shall make its share of the proceeds available without interest or charge of any kind to BUYER for the purpose of repair or reconstruction if BUYER elects to repair or reconstruct the property. If BUYER elects not to repair or reconstruct the property, SELLER may keep its share of the proceeds which shall be considered a balloon payment from BUYER on the principal amount due SELLER under this contract as of the date of loss. In the event SELLER retains any of the insurance proceeds as a balloon payment, the monthly payments shall be reduced to amortize the unpaid principal balance over the remaining portion of the original payment period.

(c) During the term of this contract, BUYER shall maintain public liability and property damage insurance with a responsible company with limits of not less than One Hundred Thousand Dollars (\$100,000.00) for injury to one person, Three Hundred Thousand Dollars (\$300,000.00) for injury arising out of any one accident, and Fifty Thousand Dollars (\$50,000.00) for damage to property.

10. COVENANT OF SELLER: SELLER covenants that SELLER is the owner of good and marketable title to the property free of all liens and encumbrances except those of record.

11. DEED: At closing, SELLER shall execute statutory warranty deed conveying the property; such deed to be held in escrow until the total purchase price has been paid in full at which time it shall be delivered to BUYER.

12. DEFAULT: Time is of the essence of this contract. The following events shall be events of default:

(a) Failure of BUYER to make any payment within ten (10) days after it is due;

(b) Except as provided in paragraph 13(e)(iv) of this contract, failure of BUYER to perform any other obligation imposed by this contract and the failure to correct or commence correction of such failure within ten (10) days after receipt of written notice from SELLER or escrow agent specifying the manner in which BUYER is in default;

(c) Insolvency or bankruptcy of BUYER; or

(d) Attempted transfer in violation of paragraph

15 below.

13. REMEDIES ON DEFAULT: Upon default, SELLER may use any or all of the following remedies in addition to any other remedies available to SELLER under applicable laws:

(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;

(d) Withdraw any deed or other document from escrow;

(e) (i) Declare this contract null and void as of the date of the breach and retain as liquidated damages the amount of the payments previously made hereunder, as reasonable rental of the property up to the time of default. In such event, all of the right, title and interest of BUYER to the property shall revert to and be vested in SELLER and BUYER agrees to peaceably surrender the property to SELLER. Should BUYER fail to so surrender the property, SELLER may treat BUYER as an unlawful holdover tenant after the expiration of a lease and BUYER may be ousted and removed as such.

(ii) If SELLER decides to pursue the forfeiture remedy set forth in subparagraph (e) (i) above, SELLER shall give written notice to BUYER, to any occupant of the property and to any person who has filed a request for notice of default with the county clerk's office in the county where the property is located.

(iii) The notice required above shall specify the nature of the default, the amount of the default if the default is in payment terms, the date after which the contract will be forfeited if the BUYER does not cure the default and the name and address of the SELLER or the SELLER'S attorney.

(iv) The period specified in the notice after which the contract will be forfeited if the BUYER fails to cure the default may not be less than:

(1) 60 days if the unpaid balance of the contract is 75% or more of the purchase price.

(2) 90 days if the unpaid balance of the contract is more than 50% but less than 75% of the purchase price.

(3) 120 days if the unpaid balance of the contract is 50% or less of the purchase price.

(v) Notice of the default may be served by both first class mail and by certified mail with return receipt requested or by service pursuant to the Oregon Rules of Civil Procedure, Rule 7D.(2) or (3).

(vi) SELLER shall record such other notices and take such other action as may be required by law to invoke the forfeiture remedy.

(f) The remedies, set forth above, in addition to any other remedies available to SELLER under applicable laws, shall be cumulative. Pursuit by SELLER of any remedy shall not be deemed to constitute an election of remedies, nor shall it be deemed to be inconsistent with any or all other additional remedies available to SELLER.

14. NOTICE: Any notice under this contract shall be in writing and shall be effective when actually delivered or when deposited in the mail, registered or certified, addressed to the parties at the address as stated below or such other addresses as either party may designate by written notice to the other.

Seller:
LUMBER PRODUCTS
2116 N.W. 20th
Portland, Oregon 97209

Buyer:
Oliver R. and Dianne E. Spires
Spires Motors, Inc.
1930 ~~1960~~ S. Sixth
Klamath Falls, Oregon 97601

15. ASSIGNMENT OR SUBCONTRACT: This contract shall be binding upon and inure to the benefit of the parties, their heirs, personal representatives, legal representatives, successors and assigns, but no interest of BUYER shall be assigned, subcontracted or otherwise transferred, voluntarily or involuntarily, without the prior written consent of SELLER. Such written consent by SELLER shall not be unreasonably withheld. Consent by SELLER to one transfer shall not constitute consent to other transfers or waiver of this paragraph. SELLER may require such personal and financial information concerning BUYER'S prospective assignee or subcontractee as a prudent lender would require of a prospective borrower. Any attempted assignment in violation of this paragraph shall be void and of no effect with respect to SELLER. As a condition to such consent, SELLER may elect to increase the interest rate hereunder by not more than two percent (2%) per annum from the date of each such transfer. Any such increase shall entitle SELLER to increased monthly payments hereunder so as to retire the obligation within the stipulated time provided for herein.

16. NON-WAIVER: Failure of SELLER at any time to require performance of any provision in this contract shall not limit the right of SELLER to enforce any such provision, nor shall any waiver by SELLER of any breach of any provision be a waiver of any succeeding breach of that provision or a waiver of that provision in itself or any other provisions.

17. DISCLOSURE: BUYER agrees that this contract is accepted and executed on the basis of an examination and personal knowledge of the property by the BUYER and opinion of the value thereof; that no attempts have been made to influence the judgment of the BUYER; that no representations as to the condition or repair of said premises has been made by the SELLER or by any agent of the SELLER; that no agreement or promise to alter or repair or improve said premises have been made by the SELLER or any agent of the SELLER; that BUYER takes said property and the improvements thereon in the condition existing at the time of this contract.

18. REPRESENTATION BY CORPORATION: SELLER represents and warrants that the execution and delivery of this contract by it has been duly authorized by proper corporate action or resolution.

19. ARBITRATION: If any controversy or claim arising out of this contract cannot be settled by the parties, the parties shall resolve the matter in the following manner:

(a) Each of the parties or their assigns shall choose a representative to decide the dispute. Any parties whose interests are aligned may choose the same representative. If the representatives are unable to resolve the dispute, a new representative shall be selected by the initial representatives and the decision of the new representative shall be final. There shall be no right of appeal from the decision of the representatives or representative.

(b) In the event a party or his assign refuses or fails to appoint a representative within sixty (60) days of a request do to so, the dispute will be submitted to arbitration in Portland, Multnomah County, Oregon, with all costs and fees therefor assessed against the party who failed or refused to appoint a representative. If any party refuses to take part in or cooperate in the arbitration, decision shall be entered against said party and shall include costs and fees of all other parties.

(c) A judgment on an award under this paragraph may be entered in any court having proper jurisdiction.

20. ATTORNEY FEES: Should any dispute among the parties be finally resolved under paragraph 19 of this contract, or should any party or representative of a party institute a lawsuit or action to enforce any provision of this contract, the prevailing party, except in the case of an uncooperative party as set forth in paragraph 19(b), shall be entitled to recover from the other such sums as the representatives, arbiter or court may adjudge as reasonable attorney fees during the dispute resolution process, arbitration, trial or on appeal of said suit or action in addition to all other sums provided by law. Notwithstanding the above, no party may institute an action in court until paragraph 19 has been complied with, except to obtain injunctive relief pending the completion of the terms of paragraph 19.

21. COMPLETE AGREEMENT: This document is the entire, final and complete agreement of the parties pertaining to the sale and purchase of the property described above, and supersedes and replaces all written and oral agreements made or existing between the parties or their representatives in so far as the property is concerned. It may not be modified orally, but only by a subsequent agreement in writing signed by the party to be charged.

22. CONSTRUCTION:

(a) The paragraph headings in this contract are for convenience only and shall not in anyway limit or be deemed to construe, interpret or be part of the terms and provisions hereof.

(b) This contract shall be construed and enforced in accordance with the laws of the State of Oregon with venue exclusively in Multnomah County, Oregon.

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

SELLER:

LUMBER PRODUCTS, an Oregon Corporation

By: [Signature]
Its: Vice President & Treasurer

By: [Signature]
Its: Assistant Secretary

BUYER:

By: *Oliver R. Spires*

Oliver R. Spires

By: *Dianne E. Spires*

Dianne E. Spires

STATE OF OREGON

County of _____

) ss.
)

Personally appeared the above-named Larry Thompson and Andra Kalnin, who being duly, sworn, each for himself and not one for the other, did say that the former is the vice-president and that the latter is the Assistant Secretary of LUMBER PRODUCTS, an Oregon corporation, and that the foregoing instrument was signed in behalf of said corporation by authority of its board of directors; and each of them acknowledged the foregoing instrument to be his voluntary act.

Leanne M. Fowler
Notary Public for Oregon
My Commission Expires: 10/02/90

STATE OF OREGON

County of Klamath) ss.
)

Personally appeared the above named Oliver R. Spires and acknowledged the foregoing instrument to be his voluntary act.

Harlene T. Addington
Notary Public for Oregon
My Commission Expires: 3-22-93

STATE OF OREGON

County of Klamath) ss.
)

Personally appeared the above named Dianne E. Spires and acknowledged the foregoing instrument to be her voluntary act.

Harlene T. Addington
Notary Public for Oregon
My Commission Expires: 3-22-93

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Until a change is requested, all tax statements shall be sent to:

Oliver R. Spires and Diane E. Spires
c/o Spires Motors, Inc.
1930 ~~1960~~ S. 6th
Klamath Falls, Oregon 97601

After recording, return to:

Steven M. Cyr
Cyr, Moe & Benner, P.C.
1230 S.W. First, Third Floor
Portland, Oregon 97204

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Aspen Title Co.
of April A.D., 19 89 at 10:46 o'clock A.M. and duly recorded in Vol. M89
of Deeds on Page 6330

FEE \$53.00

Evelyn Biehn County Clerk

By O. A. Miller

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