

LAND SALE CONTRACT

THIS CONTRACT, made and entered into this 6th day of September, 1989, by and between Richard L. Garbutt and Patricia A. Garbutt, husband and wife, hereinafter called Seller, and Neal G. Buchanan and Glenn R. Smith, hereinafter called Buyer (it being understood that the singular shall include the plural if there are two or more sellers and/or buyers). (each to an undivided 1/2 interest as tenants in common. *RB* *MS*)

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 on Exhibit "A", attached hereto and incorporated by reference herein as if fully set forth, subject to the encumbrances also set forth on Exhibit "A".

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 September 1, 1989;

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 located or which shall hereafter be placed on the property, shall remain a part of the real property and shall not be removed

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at any time prior to the expiration of this agreement without the written consent of Seller. 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 herein, 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 of Klamath County, 222 South Sixth 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 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. *20B*
pg

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

10. **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;

11. **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;

12. **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;

13. **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;

14. **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;

15. **Purchase Price and Payments:** The purchase price for the interest conveyed is the sum of \$ 47,869.32 payable as follows:

(a) Buyer shall pay as an initial payment the closing costs incurred herein, and the sum of \$ 4,795.95, and

(b) The remainder of the purchase price in the amount of \$ 43,073.37 shall be payable in monthly installments as are required to be made pursuant to that certain adjustable rate note secured by trust deed owing to Klamath First Federal Savings and Loan Association, until the said note has been paid in full, or four years, whichever shall first occur. It is the parties' intention that computation of principal and interest shall be accomplished by Klamath First Federal Savings and Loan Association as regards the said unpaid balance of the said note and trust deed. The parties further agree that a default in the performance of payments required to made pursuant to that certain note and trust deed shall in like fashion cause a default in

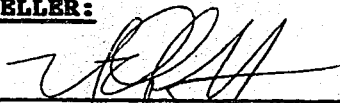
performance of the within Land Sale Contract.

16. **Inclusion of Personal Property:** It is agreed between Buyer and Seller that the property conveyed by the within Land Sale Contract includes four stoves, three refrigerators, electric heaters, curtains, drapes, and carpets, 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.

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

This property may not be sold or transferred without the written permission of the seller.

SELLER:


RICHARD L. GARBUTT


PATRICIA A. GARBUTT

BUYER:


NEAL G. BUCHANAN


GLENN R. SMITH

STATE OF OREGON/County of Klamath)ss:

PERSONALLY APPEARED BEFORE ME the above-named RICHARD L. GARBUTT and PATRICIA A. GARBUTT, and acknowledged the foregoing Land Sale Contract to be their voluntary act and deed.

DATED this 8th day of September 1989.


NOTARY PUBLIC FOR OREGON

My Commission Expires: 6-16-92

STATE OF OREGON/County of Klamath)ss.

PERSONALLY APPEARED BEFORE ME the above-named NEAL G. BUCHANAN and GLENN R. SMITH, and acknowledged the foregoing Land Sale Contract to be their voluntary act and deed.

DATED this 8th day of September 1989.


NOTARY PUBLIC FOR OREGON

My Commission Expires: 6-16-92

GRANTOR'S NAME AND ADDRESS

Gairhett
110 North 7th
Klamath Falls, OR 97601

GRANTEE'S NAME AND ADDRESS

Buchanan/Smith
601 7th St
Klamath Falls, OR 97601

AFTER RECORDING, RETURN TO:

MTG
222 South Sixth
Dallas, OR 97601

UNTIL A CHANGE IS REQUESTED
TAX STATEMENTS SHOULD BE
SENT TO:

no change

STATE OF OREGON/County of Klamath)ss:
 I CERTIFY that the within instrument
 was received for record on the _____
 day of _____, 19__ at _____
 o'clock _____ M. and recorded in Book
 _____ on Page _____ or as File/Reel
 number _____, Records of Deeds of
 said County.
 WITNESS MY HAND AND SEAL OF COUNTY
 AFFIXED.

 Recording Officer

By: _____

EXHIBIT "A"
LEGAL DESCRIPTION

17160

A portion of lot 6, Block 45, NICHOLS 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, being more particularly described as follows:

Beginning at a point in the Southeasterly boundary of Washington Street, which is also the Northwesterly boundary of Lot 6 in Block 45, NICHOLS ADDITION to the City of Klamath Falls, located 15 feet distant Southwesterly from the most Northerly corner of said Lot 6; thence Southwesterly along Washington Street to the line between Lots 5 and 6 in said Block 45; thence Southeasterly along said line between Lots 5 and 6 a distance of 90 feet; thence Northeasterly at right angles to said line between said lots 5 and 6, a distance of 55.83 feet; thence Northwesterly in a straight line to the point of beginning.

SUBJECT TO a sewer easement as disclosed by instruments recorded in Volume 67, page 469, and in Volume 87, page 17, Deed Records of Klamath County, Oregon, to wit:

"Also an easement for sewer from the portion of land herein conveyed to connect same with the sewer on the portion of Lot 6 aforesaid, now owned by the grantor and lying Northerly of the tract herein conveyed. The property over which said easement is given to subject to a mortgage to be paid by grantor."

ALSO SUBJECT TO the terms and provisions of a certain Trust Deed, given to secure an indebtedness with interest thereon and such future advances as may be provided therein.

Dated: June 26, 1986

Recorded: July 1, 1986

Volume: M86, page 11452, Microfilm Records of Klamath County, Oregon

Amount: \$44,700.00

Grantor: Richard L. Garbutt and Patricia A. Garbutt, husband and wife

Trustee: William L. Sisemore

Beneficiary: Klamath First Federal Savings and Loan Association
Conditional Assignment of Rentals, subject to the terms and provisions thereof.

Dated: June 26, 1986

Recorded: July 1, 1986

Volume: M86, page 11457, Microfilm Records of Klamath County, Oregon

Owner: Richard L. Garbutt and Patricia A. Garbutt

Mortgagee: Klamath First Federal Savings and Loan Association

which said Note and Trust Deed Buyer does not assume, but which is to be paid from out of the proceeds in the payment of the within Land Sales Contract

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Mountain Title Co. the 12th day
of Sept. A.D., 19 89 at 9:48 o'clock A.M., and duly recorded in Vol. M89
of Deeds on Page 17095

FEE \$33.00

Evelyn Biehn . County Clerk

By Pauline Mulindore