

K-41808

SALE AGREEMENT

THIS AGREEMENT, made and entered into this 1st day of ~~November~~ October, 1989, by and between:

JAMES K. PUTER,

hereinafter called Seller, which term includes the heirs, successors, personal representatives and assigns of said person; and

DAVID WEBB and MICHELLE WEBB,  
husband and wife,

hereinafter called Purchasers which term includes the heirs, successors and personal representatives of said persons.

WITNESSETH:

That the Seller, for and in consideration of the covenants and promises herein stated to be kept and performed by the Purchasers has agreed to sell and convey to the Purchasers and the Purchasers have agreed to purchase and to pay to the Seller, the sums of money hereinafter stated for the following-described real property:

Lot 7, Block 9, Dixon Addition, to the City of Klamath Falls in the County of Klamath, State of Oregon.  
TOGETHER WITH the kitchen appliances, living room, dining room and bedroom furniture presently in the improvements on the property.

The whole purchase price of the property which the Purchasers are to pay to the Seller is the sum of THIRTY SIX THOUSAND AND NO/100-----DOLLARS (\$36,000.00) which shall be paid as follows:

\$ 1,000.00 in cash, receipt of which is hereby acknowledged by the Seller; and  
\$ 5,000.00 in cash upon the execution and delivery of this agreement.

The balance of \$30,000.00, together with accrued interest as hereinafter set forth shall be payable:

\$ 350.00 or more on or before the 1st day of December, 1989; and  
\$ 350.00 or more on or before the 1st day of each and every month thereafter until the entire remaining balance of the purchase price, together with accrued interest as hereinafter set forth has been fully paid.

Unpaid balances hereon shall bear interest from November 1st, 1989 at the rate of ten percent (10%) per annum, payable monthly on or before the 1st day of each and every month, commencing December, 1989, said interest payments to be included in the above specified monthly payments.

The payments required hereby are to be made into an escrow collection account to be established through Willamette Valley Title Co. at INVESTOR'S MORTGAGE CO., Stayton, Oregon, with all costs in connection therewith to be paid one-half by the Seller and one-half by the Purchasers with all

sums received to be applied first to the underlying trust deed obligation, hereinafter described with the balance, if any, to be disbursed to the Seller.

In addition to the monthly payments to be applied to principal and interest as hereinabove specified, the Purchasers agree to pay monthly a further sum to be applied to the payment of taxes which accrue on the subject property, which sum shall be computed at one-twelfth (1/12) of the annual taxes on the property, and until adjusted by the Seller, said tax reserve payment shall be the sum of \$ 75.00, which sum shall be deposited into an interest per month bearing account. A complete account and record of said tax reserve shall be kept by the collection escrow hereinafter described and excess funds deposited in said reserve account shall be declared to be the property of the Purchasers; and further, the Purchasers agree that the Seller shall have the right to increase or decrease said tax reserve payments as the taxes on the subject property are increased or decreased from year to year.


The Seller shall pay taxes on the above-described real property up to and including the pro rata of taxes for the tax year 1989-90 to the date of the execution of this agreement and the Purchasers assume and agree to pay the pro rata of said 1989-90 taxes from the date of the execution of this agreement and all taxes and assessments thereafter.

The fire insurance policies on the within-described real property shall be furnished by the Purchasers hereto as of November 1, 1989 and thereafter, the Purchasers agree to keep the buildings upon said land insured at all times during the term of this agreement in the amount of the full insurable value thereof, in a company or companies satisfactory to the Seller and payable to the Seller's trust deed beneficiary, hereinafter named, and the parties hereto as their interests may appear, with priority of payment to the Seller's trust deed beneficiary and the Seller. Said policy or policies of fire insurance shall contain a "standard" loss payable clause in which the Seller's trust deed beneficiary and the Seller shall be deemed to be the mortgagees, the original copy of said policy or policies of fire insurance to be delivered to and held by said trust deed beneficiary, and the Seller shall hold a copy of said policy or policies, and which policy or policies shall include extended coverage. Sums paid by an insurance carrier to compensate for loss by fire and similar casualty will be first applied on the repair or reconstruction of any damaged or destroyed improvements, with the balance, if any, to be applied on the unpaid principal balance of the obligation herein expressed.

The Purchasers shall have possession of said real property on or before November 1, 1989 and shall thereafter maintain said property in good condition and repair, and shall make no improper use of said property, or any part thereof, and shall permit no lien to be made or filed against said property, or any part thereof, or permit strip or waste, until the whole purchase price, together with accrued interest, has been fully paid, and shall pay all taxes and assessments which may be lawfully levied or assessed against said property before the same shall become delinquent, except the taxes to be paid by the Seller, as hereinabove provided; and if the Purchasers shall fail to pay any taxes or charges, or any lien, encumbrance or insurance premiums as herein provided for, the Seller may, at

insurance premiums as herein provided for, the Seller may, at Sellers option, do so, and any payment so made shall be added to and become a part of the principal purchase price, and shall bear interest at the same rate as provided in this agreement, without waiver, however, of any right arising to the Seller, for breach of covenant.

The Purchasers are purchasing the within-described property and premises on their own examination and inspection and have not relied on the statements or representations made by the Seller, his agents or assigns, or any broker negotiating this sale, and the Purchasers are specifically purchasing the within-described property and premises in its present "AS IS" condition.

 The Seller reserves the right for the Seller or the Seller's agent to inspect the interior and exterior of the subject property and improvements thereon from time to time at times when the Purchaser is in residence on the property upon giving the Purchasers twenty-four hours prior written notice of the Seller's intention to so inspect.

The above-described property is now subject to a trust deed in favor of Centennial Bank which trust deed was dated in August of 1982, recorded August 23, 1982, in Microfilm-82, page 11029 as assigned by instrument recorded January 11, 1988, in Microfilm-88, page 514 of records for Klamath County, Oregon. The Seller agrees to continue payments on said trust deed and to save the Purchasers harmless therefrom and to otherwise fully comply with the terms and provisions of said trust deed. In the event the Seller fails to pay the sums required under the terms of said trust deed and the note secured thereby, the Purchasers shall have the right, at their option, to make said payments and claim and receive credit therefor as a part of the payments which accrue pursuant to the terms of this agreement.

Within ten (10) days of the date hereof, the Seller will secure a Purchaser's Title Insurance Policy in the amount of \$36,000.00, insuring the Purchasers as to the title of the Seller, as herein represented, and on final payment of the sums herein provided, said policy shall be accepted in lieu of any further or other evidence of the title of the Seller. When the said whole purchase price, together with accrued interest, has been fully paid to the Seller by the Purchasers, then the said Seller shall convey said real property to the Purchasers by Warranty Deed, in fee simple, free and clear of all liens and encumbrances whatsoever, except as herein provided, save and except such liens and encumbrances as may have been suffered or permitted by the Purchasers on and after the execution of this agreement, (which deed will be held in escrow at Willamette Valley Title Co. until final payment).

This agreement is personal to the Purchasers and said Purchasers shall not sell, assign, transfer or set over any of their right, title and interest in and to said property or this agreement without the prior written consent of the Seller which consent shall not be unreasonably withheld. The Seller shall have the right in determining whether or not to consent to review such financial and credit information regarding the proposed Purchasers as the Seller deems appropriate. In addition, the Seller shall have the right, if the Seller consents to a sale or other transfer or assignment, to increase the interest rate applicable to the unpaid principal balances of the purchase price to such rate as is then the prevailing rate being charged in the Klamath Falls area by commercial banks and savings and loan associations on loans secured by first mortgages on single family residential properties.

The parties acknowledge that this agreement has been prepared by the law firm of SHERMAN, BRYAN, SHERMAN, MURCH & KNAPP, at the request and direction of the Seller herein; and

that said law firm represents only the Seller with regard to this transaction.

The Purchasers are purchasing the subject real property as tenants by the entirety, and in the event of the death of one of the Purchasers before final payment is made pursuant to the terms of this agreement, the surviving Purchaser shall be the owner of all of the Purchasers' interest in this contract of purchase, and the real property herein described, and entitled to receive the subject real property as his or her sole and separate property upon final payment under the terms of this agreement.

All improvements placed upon the subject property shall remain and shall not be removed before final payment be made for said property.

This document is the entire, final and complete agreement of the parties pertaining to the sale and purchase of the within-described 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 within-described property is concerned.

In the event the Purchasers shall fail to perform any of the terms of this agreement, time of payment and performance being of the essence, Seller shall, at Seller's option, subject to the requirements of notice as herein provided, have the following rights (no one of which shall be waived by exercise of another):

(a) To foreclose this contract by strict foreclosure in equity;

(b) To declare the full unpaid balance of the purchase price immediately due and payable;

(c) To specifically enforce the terms of this agreement by suit in equity;

(d) To declare this contract to be null and void after notice pursuant to ORS 93.905 to 93.945 to Purchasers in writing of Seller's intention to do so, unless the performance then due under this contract is tendered or accomplished prior to the time stated. Upon the maturing of such declaration, all of Purchasers' rights under this contract shall cease without further act by Seller, Seller shall be entitled to immediate possession of the property and all payments previously made to Seller by Purchasers may be retained by Seller as reasonable rental for the property up to the time of default;

(e) To bring an action for the unpaid and overdue payments without waiving the security of the property, it being agreed that Purchasers' promise to pay the purchase price, except the final payment, is independent of Seller's agreement to convey title; and

(f) To have a receiver appointed to manage the property, collect the rents and profits and apply them on the unpaid balance of the contract until default is cured.

Purchasers shall not be deemed in default for failing to perform any covenant or condition of this contract, other than making payment and providing insurance as hereinabove required, until notice of said default has been given by Seller to Purchasers, and Purchasers shall have failed to remedy said default within ten (10) days after the giving of the notice. Notice for this purpose shall be deemed to have been given by the deposit in the mail of a certified letter containing such notice and addressed to Purchasers at the address herein described. If

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Purchasers shall fail to make payments or provide insurance coverage as herein provided and said failure shall continue for more than ten (10) days after the payment becomes due, Purchasers shall be deemed in default and Seller shall not be obligated to give notice to Purchasers of a declaration of said default. For purposes of this agreement, the mailing address for the Seller is:

5270 Cabin Ct. SE, Salem, OR 97306  
and for the Purchasers is:  
151 N. Wendling, Klamath Falls, OR 97601

If any suit or action is commenced to enforce any of the rights, terms or provisions expressed in this agreement, the party not prevailing agrees to pay to the prevailing party a reasonable attorney's fee for services rendered to the prevailing party in any trial or appellate court in which such suit or action is heard, plus the costs and disbursements awarded therein, and the reasonable expenses of an examination of the public records to assist in determining who should be made parties to such suit or action.

The Purchasers agree that failure by the Seller at any time to require performance by the Purchasers of any provision hereof shall in no way affect Seller's right hereunder to enforce the same, nor shall any waiver by said Seller of any breach of any provision hereof be held to be a waiver of any succeeding breach of the same or any other provision of this agreement.

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. (O.R.S. 93.040(1))

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

David + Michelle Webb  
151 N. Wendling  
Klamath Falls, OR 97601

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first hereinabove written.

James K. Puter  
James K. Puter

SELLER

David Webb  
David Webb

Michelle Webb  
Michelle Webb

PURCHASERS



STATE OF OREGON )  
 ) ss.:  
 County of Marion )

On this 3rd day of <sup>November</sup> ~~October~~, 1989, personally appeared the within-named JAMES K. PUTER, and acknowledged the foregoing instrument to be his voluntary act and deed.

Before me:

Antonia [Signature]  
 Notary Public for Oregon  
 My Commission Expires: 11/7/93

STATE OF OREGON )  
 ) ss.:  
 County of Klamath )

On this 7 day of October, 1989, personally appeared the within-named DAVID WEBB and MICHELLE WEBB, husband and wife,, and acknowledged the foregoing instrument to be their voluntary act and deed.

Before me:

William J. Searin  
 Notary Public for Oregon  
 My Commission Expires: Oct 8, 1990

After recording, please return to:  
Daria + Michelle Webb  
151 N Wendling  
Klamath Falls Oregon 97601

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County Title Co. the 9th day  
 of Nov. A.D., 19 89 at 9:18 o'clock AM., and duly recorded in Vol. M89,  
 of Deeds on Page 21674.

FEE \$33.00

Evelyn Biehn - County Clerk  
 By Pauline Mullendore