

Aspen Title #01038424

## AGREEMENT

THIS AGREEMENT, made and entered into this 23<sup>rd</sup> day of June, 1992, by and between Charles D. Cheyne hereinafter called the vendor, and Ed A. Nunes and Crystal L. Nunes, husband and wife, hereinafter called the vendees.

## WITNESSETH

Vendor agrees to sell to the vendees and the vendees agree to buy from the vendor all of the following described property situate in Klamath County, State of Oregon, to-wit:

The E 1/2 of NE 1/4 of Section 10, Township 40 South, Range 9 East of the Willamette Meridian, in the County of Klamath, State of Oregon.

## SUBJECT TO:

Rights of School District No. 25 to two acres in a square in the Northeast corner thereof granted for School Purposes by instrument recorded in Book 1 at Page 451, Deed Records of Klamath County, Oregon.

Mortgage from Charles D. Cheyne and Margaret G. Cheyne, husband and wife, in favor of Federal Land Bank of Spokane, recorded M72, page 8105, which mortgage the Vendees do not assume and the Vendor agrees to hold them harmless therefrom.

As disclosed by the tax roll the premises herein described have been zoned or classified for farm use. At any time said land is disqualified for such use, the property may be subject to additional taxes or penalties and interest.

Regulations, including levies, assessments, water and irrigation rights and easements for ditches and canals, of Klamath Irrigation District.

Regulations, including levies, assessments, water and irrigation rights and easements for ditches and canals, of Klamath Basin Improvement District.

Water Right Contract, including the terms and provisions thereof:  
Between: The United States of America  
And: August Schubert and Carl Schubert  
Dated: February 13, 1921  
Recorded: March 18, 1929  
Book: 85  
Page: 439

Code 164 Map 4009-1000 TL 200

at and for a price of \$165,000.00, payable as follows, to-wit: \$25,000.00 at the time of the execution of this agreement, the receipt of which is hereby acknowledged: \$140,000.00 with interest at the rate of 8.75% per annum from September 15, 1992 payable \$9,088.00 inclusive of interest on April 15, 1993; a further installment of \$15,588.00 inclusive of interest shall be paid on April 15, 1994, and the balance shall be paid in annual installments of \$13,088.00 beginning April 15, 1995, and a like installment on the 15th day of each April thereafter until the full balance and interest are paid.

IF all or any part of the property or any interest in it is sold or transferred without the Seller's prior written consent, the Seller may, at his

option, require immediate payment of all sums secured by this contract due and payable.

In the event the purchasers should pay more than the scheduled payments called for by this contract, the purchasers shall, in addition to the payments, pay any additional income taxes which may result to the seller as determined by the seller's certified public accountant. The amount of the funds paid for the income taxes shall not be credited against the unpaid balance of this contract. This paragraph shall not be applied if the seller exercises the option to declare the full balance due and payable because of the sale of the property.

Vendees agree to make said payments promptly on the dates above named to the order of the vendor, or the survivors of them, at the Klamath First Federal Savings and Loan Association at Klamath Falls, Oregon; to keep said property at all times in as good condition as the same now are, that no improvement, now on or which may hereafter be placed on said property shall be removed or destroyed before the entire purchase price has been paid and that said property will be kept insured in companies approved by vendor against loss or damage by fire in a sum not less than full insurable value with loss payable to the parties as their respective interests may appear, said policy or policies of insurance to be held by vendees with copy to vendor, that vendees shall pay regularly and seasonably and before the same shall become subject to interest charges, all taxes, assessments, liens and encumbrances of whatsoever nature and kind except the mortgage to Federal Land Bank of Spokane and agree not to suffer or permit any part of said property to become subject to any taxes, assessments, liens, charges or encumbrances, whatsoever having precedence over rights of the vendor in and to said property. Vendees shall be entitled to the possession of said property on closing of this sale.

Vendor will on the execution hereof make and execute in favor of vendees good and sufficient warranty deed conveying a fee simple title to said property free and clear as of this date of all encumbrances whatsoever, except those assumed by vendees, and will place said deed together with one of these agreements in escrow at the Klamath First Federal Savings and Loan Association at Klamath Falls, Oregon, and shall enter into written escrow instructions in form satisfactory to said escrow holder, instructing said holder that when, and if, vendees 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 instruments to vendees, but that in case of default by vendees said escrow holder shall, on demand, surrender said instruments to vendor.

But in case vendees shall fail to make the payments aforesaid, or any of them, punctually and upon the strict terms and at the times above specified, or fail to keep any of the other terms or conditions of this agreement, time of payment and strict performance being declared to be the essence of this agreement, then vendor shall have the following rights: (1) To foreclose this contract by strict foreclosure in equity; (2) To declare the full unpaid balance immediately due and payable; (3) To specifically enforce the terms of the agreement by suit in equity; and in any of such cases, except exercise of the right to specifically enforce this agreement by suit in equity, all of the right and interest hereby created or then existing in favor of vendees derived under this agreement shall utterly cease and determine, and the premises aforesaid shall revert and revest in vendor without any declaration of forfeiture or act of re-entry, and without any other act by vendor to be performed and without any right of vendees of reclamation or compensation for money paid or for improvements made, as absolutely, full and perfectly as if this agreement had never been made.

Should vendees, while in default, permit the premises to become vacant, vendor may take possession of same for the purpose of protecting and preserving

the property and his security interest therein, and in the event possession is so take by vendor he shall not be deemed to have waived his right to exercise any of the foregoing rights.

And in case suit or action is instituted to foreclose or to enforce any of the provisions hereof, the prevailing party in such suit or action shall be entitled to receive from the other party his costs which shall include the reasonable cost of title report and title search and such sum as the trial court and or appellate court, if any appeal is taken, may adjudge reasonable as attorney's fees to be allowed the prevailing party in said suit or action and or appeal, if an appeal is taken.

Vendees further agree that failure by vendor at any time to require performance by vendees of any provision hereof shall in no way affect vendor's right hereunder to enforce the same, nor shall any waiver by vendor of such 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.

In construing this contract, it is understood that vendor or the vendees may be more than one person; that if the context so requires the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine, and the neuter, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

This agreement shall bind and inure to the benefit of, as circumstances may require, the parties hereto and their respective heirs, executors, administrators and assigns.

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.

This contract has been prepared by William L. Sisemore as attorney for Charles D. Cheyne. The buyers are advised that they have the right and should consult with their own attorney before signing this contract.

WITNESS the hands of the parties the day and year first herein written.

Charles D. Cheyne  
Charles D. Cheyne

Ed A. Nunes  
Ed A. Nunes

Crystal L. Nunes  
Crystal L. Nunes

STATE OF OREGON )  
County of Klamath ) SS

June 23, 1992

Personally appeared the above named Ed A. Nunes and Crystal L. Nunes and acknowledged the foregoing instrument to be their act and deed. Before me:

William L. Sisemore  
Notary Public for Oregon  
My Commission Expires: 3-22-93

1 STATE OF OREGON )  
 2 County of Klamath ) SS

3 Personally appeared the above named Charles D. Cheyne and acknowledged  
 4 the foregoing instrument to be his act and deed. Before me:

5 W. Parlene L. Addington  
 6 Notary Public for Oregon

7 My Commission Expires: 3-22-93

8 Until a change is request, send  
 9 tax statements to:

10 Ed A. & Crystal Cheyne  
10057 E. Longell Valley Rd.  
Beranza, OR

After recording, return to:

Aspen Title  
Attn: Escrow Dept.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Aspen Title Co. the 24th day  
 of June A.D., 19 92 at 8:48 o'clock A.M., and duly recorded in Vol. M92  
 of Deeds on Page 13773.

FEE \$45.00

Evelyn Biehn, County Clerk

By Danette Mullins

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