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FORM No. 705—CONTRACT—REAL ESTATE—Purchaser Assumes Existing Encumbrance.

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ON

54083

CONTRACT—REAL ESTATE

Vol. m92 Page 27342

THIS CONTRACT, Made this 17<sup>th</sup> day of November, 1992, between

Joseph Frederick Derry JR and Ginger Lee Derry

hereinafter called the seller,

and Z. Craig Lovett and Christine M. Lovett

hereinafter called the buyer,

WITNESSETH: That in consideration of the mutual covenants and agreements herein contained, the seller agrees to sell unto the buyer and the buyer agrees to purchase from the seller all of the following described lands and premises situated in Klamath County, State of Oregon, to-wit:

The East 40 feet of Lot 1 in Block 10, FIRST ADDITION TO CHILOQUIN, Klamath County, Oregon

Klamath County Tax Account # 3407-3400-3400

for the sum of Thirty-Nine Thousand Three Hundred Forty and 87/100 Dollars (\$39,340.87) hereinafter called the purchase price, in part payment of which the buyer assumes and agrees to pay a contract or mortgage (the word "mortgage" as used herein includes within its meaning a trust deed) now on said land recorded in book/reel/volume No. M88 at page 9238 or as fee/file/instrument/microfilm/reception No. 88235 (indicate which) of the Deed\*, Mortgage\*, Miscellaneous\* Records of said county, reference to which hereby is made, the unpaid principal balance of which is \$34,340.87, together with the interest hereafter to accrue on said contract or mortgage according to the terms thereof; the buyer agrees to pay the balance of said purchase price to the order of the seller, at the times and in amounts as follows, to-wit:

The balance due the seller of \$5,000 shall be paid monthly over a period of 5 years, with no interest, by the 13<sup>th</sup> of each month, starting January 13, 1993, in the amount of \$83.34 (Eighty-Three and 34/100 Dollars) or more, to: Jean Derry at: 8 Palm Point Drive, Jupiter, Florida 33458

All of said purchase price may be paid at any time; all of the said deferred payments shall bear interest at the rate of \_\_\_\_\_ per cent per annum from \_\_\_\_\_ until paid; interest to be paid \_\_\_\_\_ and \_\_\_\_\_ in addition to \_\_\_\_\_ the minimum regular payments above required. Taxes on said premises for the current fiscal year shall be prorated between the parties hereto as of the date of this contract.

The buyer warrants to and covenants with the seller that the real property described in this contract is

(A) primarily for buyer's personal, family or household purposes,

(B) for an organization (even if buyer is a natural person) for business or commercial purposes.

The buyer shall be entitled to possession of said lands on December 1, 1992, and may retain such possession so long as buyer is not in default under the terms of this contract. The buyer agrees that at all times buyer will keep the premises and the buildings, now or hereafter erected thereon, in good condition and repair and will not suffer or permit any waste or strip thereof; that buyer will keep said premises free from construction and all other liens and save the seller harmless therefrom and reimburse seller for all costs and attorney's fees incurred by seller in defending against any such liens; that buyer will pay all taxes hereafter levied against said property, as well as all water rents, public charges and municipal liens which hereafter lawfully may be imposed upon said premises, all promptly before the same or any part thereof become past due; that at buyer's expense, buyer will insure and keep insured all buildings now or hereafter erected on said premises against loss or damage by fire (with extended coverage) in an amount not less than full insurable value in a company or companies satisfactory to the seller, with loss payable first to the seller and then to the buyer as their respective interests may appear and all policies of insurance to be delivered to the seller as soon as insured. Now if the buyer shall fail to pay any such liens, costs, water rents, taxes or charges or to procure and pay for such insurance, the seller may do so and any payment so made shall be added to and become a part of the debt secured by this contract and shall bear interest at the rate aforesaid, without waiver, however, of any right arising to the seller for buyer's breach of contract.

The seller agrees that at seller's expense and within \_\_\_\_\_ days from the date hereof, seller will furnish unto buyer a title insurance policy insuring (in an amount equal to said purchase price) marketable title in and to said premises in the seller on or subsequent to the date of this agreement, save and except the usual printed exceptions and the building and other restrictions and easements now of record, if any, and the said contract or mortgage. Seller also agrees that when said purchase price is fully paid and upon request and upon surrender of this agreement, seller will deliver a good and sufficient deed conveying said premises in fee simple unto the buyer, buyer's heirs and assigns, free and clear of encumbrances as of the date hereof and free and clear of all encumbrances since said date placed, permitted or arising by, through or under seller, excepting, however, the said easements, restrictions, the said contract or mortgage and the taxes, municipal liens, water rents and public charges so assumed by the buyer and further excepting all liens and encumbrances created by the buyer or assigns.

(Continued on reverse)

\*IMPORTANT NOTICE: Delete, by lining out, whichever phrase and whichever warranty (A) or (B) is not applicable. If warranty (A) is applicable and if the seller is a creditor, as such word is defined in the Truth-in-Lending Act and Regulation Z, the seller MUST comply with the Act and Regulation by making required disclosures; for this purpose, use Stevens-Ness Form No. 1319 or similar.

Joseph & Ginger Derry  
2118 Wiard Street  
Klamath Falls, Oregon 97603

SELLER'S NAME AND ADDRESS

Z. Craig and Christine Lovett  
2344 Roberts Rd  
Medford, Or 97504

BUYER'S NAME AND ADDRESS

After recording return to:

Joseph & Ginger Derry  
2118 Wiard Street  
Klamath Falls, Oregon 97603

NAME, ADDRESS, ZIP

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

Joseph & Ginger Derry  
2118 Wiard Street  
Klamath Falls, Oregon 97603

NAME, ADDRESS, ZIP

STATE OF OREGON,

County of \_\_\_\_\_

SS.

I certify that the within instrument was received for record on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M., and recorded in book/reel/volume No. \_\_\_\_\_ on page \_\_\_\_\_ or as fee/file/instrument/microfilm/reception No. \_\_\_\_\_, Record of Deeds of said county.

Witness my hand and seal of County affixed.

NAME

TITLE

By \_\_\_\_\_ Deputy

40.00  
2.00



And it is understood and agreed between said parties that time is of the essence of this contract, and in case the buyer shall fail to make the payments above required, or any of them, and the payments to become due on said contract or mortgage, principal and interest, or any of them, punctually within ten days of the time limited therefor, or fail to keep any agreement herein contained, then the seller at seller's option shall have the following rights:

- (1) To declare this contract cancelled for default and null and void, and to declare the purchaser's rights forfeited and the debt extinguished, and to retain sums previously paid hereunder by the buyer;
- (2) To declare the whole unpaid principal balance of said purchase price with the interest thereon at once due and payable; and/or
- (3) To foreclose this contract by suit 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 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 the buyer of return, reclamation or compensation for moneys 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. And the said seller, in case of such default, shall have the right immediately, or at any time thereafter, to enter upon the land aforesaid, without any process of law, and take immediate possession thereof, together with all the improvements and appurtenances thereon or thereto belonging.

The buyer further agrees that failure by the seller at any time to require performance by the buyer 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 any such provision, or as a waiver of the provision itself.

The sellers state to the buyers, that to the best of their ability, there are no liens or encumbrances against said property.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$39,340.87. <sup>①</sup> However, the actual consideration consists of or includes other property or value given or promised which is <sup>part of the</sup> consideration. Indicate which: <sup>②</sup> 640

In case suit or action is instituted to foreclose this contract or to enforce any provision hereof, the losing party in said suit or action agrees to pay such sum as the trial court may adjudge reasonable as attorney's fees to be allowed the prevailing party in said suit or action and if an appeal is taken from any judgment or decree of the trial court, the losing party further promises to pay such sum as the appellate court shall adjudge reasonable as the prevailing party's attorney's fees on such appeal.

In construing this contract, it is understood that the seller or the buyer may be more than one person; that if the context so requires, the singular pronoun shall be taken to mean and include the plural 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.

IN WITNESS WHEREOF, said parties have executed this instrument in duplicate; if either of the undersigned is a corporation, it has caused its name to be signed and its seal affixed by an officer or other person duly authorized to do so by order of its board of directors.

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.

\* SELLER: Comply with ORS 93.905 at seq prior to exercising this remedy.  
NOTE—The sentence between the symbols ①, if not applicable, should be deleted. See ORS 93.030.

STATE OF OREGON, County of Klamath ) ss.

This instrument was acknowledged before me on \_\_\_\_\_, 19\_\_\_\_,

by \_\_\_\_\_  
This instrument was acknowledged before me on November 17, 1992,  
by Ginger Lee Derry, Joseph Frederick Derry Jr., Christine M Lovett  
and Zeldon C Lovett



OFFICIAL SEAL  
SHIRLEY J. DRUMM  
NOTARY PUBLIC - OREGON  
COMMISSION NO. 005078  
MY COMMISSION EXPIRES APR. 15, 1995

*Shirley J. Drumm*

Notary Public for Oregon  
April 16, 1995

Section 4 of Chapter 618, Oregon Laws 1975, provides:

"(1) All instruments contracting to convey fee title to any real property, at a time more than 12 months from the date that the instrument is executed and the parties are bound, shall be acknowledged, in the manner provided for acknowledgment of deeds, by the owner of the title being conveyed. Such instruments, or a memorandum thereof, shall be recorded by the conveyer not later than 15 days after the instrument is executed and the parties are bound thereby.

"(2) Violation of subsection (1) of this section is a Class B misdemeanor."

(DESCRIPTION CONTINUED)

### Terms of this Sale:

- 1) The payment on the contract that the buyer assumes shall be paid in the amount of not less than Three-Hundred Fifty-Nine and <sup>90</sup>/<sub>100</sub> Dollars (\$359.<sup>90</sup>), which is at a rate of 9% per annum, due on the 13<sup>th</sup> of each month. The buyers agree to make the November 13<sup>th</sup> payment on or before the 30<sup>th</sup> of November to Mountain Title Company in Klamath Falls, Oregon. They will then continue making each payment from December 13, 1992, and thereafter to Mountain Title.
- 2) Buyers will take over back property taxes owing in the approximate amount of \$3,605.89 (Three Thousand Six Hundred Five and <sup>89</sup>/<sub>100</sub> Dollars). They agree to make a \$200.00 (Two Hundred Dollar) payment each month, beginning in December 1992, to the Klamath County Tax Office. They will continue to pay the ~~same~~ monthly until the June 1993 payment at which time the amount will be \$100.00 (One Hundred and <sup>00</sup>/<sub>100</sub> Dollars) monthly, or more, thereafter each month until such time all back taxes are brought current. Each latest year of back taxes due must be paid by buyers by May 1<sup>st</sup> of the year which would cause it to go into foreclosure.
- 3) Sellers agree to remove all of their property (personal items) from the premises except the debris in the basement, by November 30, 1992. The debris in the basement will be the buyers' responsibility. The sellers will leave the bathroom sink vanity and old wooden table with rounded corners.
- 4) Property is sold in "As Is" condition. Buyers are aware of leaks in roof and low water pressure.
- 5) An insurance policy in an amount of at least \$40,000.00 must be in effect by December 1, 1992, with Cynthia Gallagher listed as the beneficiary of said policy with balance left over to Joseph Frederick Derry Jr. after Cynthia's last balance has been paid.



27343-A

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Z. Craig Lovett the 18th day  
of Nov A.D., 19 92 at 9:58 o'clock A.M., and duly recorded in Vol. M92,  
of Deeds on Page 27342.

FEE \$40.00  
cc 2.00

Evelyn Biehn - County Clerk  
By Pauline Muelendorf