

94016

MTC 34454-KR
LAND SALE CONTRACT

ORIGINALS

THIS CONTRACT, made and entered into this 17th day of January, 1995, by and between LYLE J. SHELDON and DIANNE M. SHELDON, husband and wife, hereinafter called Seller; and BRENDAN BRIEN, hereinafter called Buyer; (it being understood that the singular shall include the plural if there are two or more sellers and/or buyers).

WITNESSETH:

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 located in the County of Klamath, State of Oregon and legally described as follows, to-wit:

The Southwest quarter of the Southeast quarter of Section 25, Township 35 South, Range 12 East of the Willamette Meridian, Klamath County, Oregon.

SUBJECT TO contracts and/or liens for irrigation and/or drainage, the schedule of exclusions from coverage, together with any schedules contained in standard title policies, reservations, easements, restrictions and rights-of-way of record and those apparent on the land.

ALSO SUBJECT TO rights of the public in and to any portion of the herein described property lying within the boundaries of streets, roads or highways.

ALSO SUBJECT TO those certain exceptions set forth on the attached Exhibit A, incorporated herein as if fully set forth.

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, AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

It is mutually agreed as follows:

1. **Possession:** Buyer shall be entitled to possession of the property as of the date of closing hereof;

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 the acts of Buyer 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;

The true and actual consideration for this conveyance is \$127,000.00.

GRANTORS NAME AND ADDRESS:

LYLE J. SHELDON and DIANNE M. SHELDON

GRANTEES NAME AND ADDRESS:

515 S. Broad St.,
BRENDAN BRIEN

AFTER RECORDING, RETURN TO:

Brendan
MOUNTAIN TITLE COMPANY
222 S SIXTH ST, KLAMATH FALLS OR 97601

UNTIL A CHANGE IS REQUESTED,
SEND TAX STATEMENT TO:

Brendan Brien

4. **Insurance:** Buyer will keep any building or improvements on said property insured against loss or damage by fire or other casualty in an amount of not less than the full insurable value thereof with loss payable to 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 at any time prior to the expiration of this agreement without the written consent of Seller. Buyer shall not cut or remove any timber, trees or shrubbery without Seller's prior written consent. 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 Special Warranty Deed (statutory form) conveying said property free and clear of all liens and encumbrances, except as provided herein and will place said document, together with this agreement, in escrow at Klamath First Federal Savings and Loan Association, and shall enter into written escrow instructions in form satisfactory to said escrow holder and the parties hereto, instructing 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.

8. **Property Taken "AS IS, WITH ALL FAULTS":** 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, has 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. **Consent to Assignment:** Buyer shall not assign this agreement, his rights thereunder, or in the property covered thereby without the written consent of Seller. Such consent shall not be unreasonably withheld. In the event the within described property, any part thereof, any interest therein (whether legal or equitable) is sold, agreed to be sold, conveyed, assigned or alienated by the Buyer without having first obtained the written consent or approval of the Seller, then, at the Seller's option, all obligations secured by this instrument, irrespective of the maturity date expressed herein, shall become immediately due and payable;

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

11. **Default:** In case Buyer shall fail to make the payments aforesaid, or any of them punctually and within 15 days of the date due as 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 any 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;

12. 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;

13. 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;

14. 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;

15. 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;

16. Purchase Price and Payments: The purchase price for the interest conveyed is the sum of ONE HUNDRED TWENTY SEVEN THOUSAND AND NO HUNDREDTHS (\$127,000.00) DOLLARS, payable as follows:

(a) Buyer shall pay an initial payment in the sum of FIFTY THOUSAND AND NO HUNDREDTHS (\$50,000.00) DOLLARS; and

(b) The remainder of the purchase price in the amount of SEVENTY SEVEN THOUSAND AND NO HUNDREDTHS (\$77,000.00) DOLLARS shall be payable in monthly installments of not less than SIX HUNDRED NINETEEN AND FIFTY SIX HUNDREDTHS (\$619.56) DOLLARS per month including interest at the rate of NINE percent (9%) per annum on the unpaid balance, which said sum includes principal and interest; together with the applicable collection escrow fee, if any; the first of such payments shall be payable on the 1st day of March, 1995, with a further and like installment payable on the same day of each and every month thereafter UNTIL THE 1ST DAY OF JANUARY, 2000, WHEN THE ENTIRE UNPAID BALANCE, INCLUDING PRINCIPAL AND INTEREST SHALL BE FULLY DUE AND PAYABLE. Buyer may make advance or excess payments without penalty, and if so made, shall first be applied toward account interest, and the remainder will be applied toward the principal balance. No partial prepayment shall excuse the payment of installments next coming due.

Notwithstanding the foregoing provision requiring payment in full of the entire balance prior to January 1, 2000, the parties agree that in the event that Buyer shall have made application to no less than three lenders and shall as a result of such applications have been denied the necessary loan to refinance the premises, then, and only in such event, Buyer shall be afforded an additional 24 month period to pay the entire balance owing (provided further that Buyer shall be required to continue to make the monthly payments hereinabove provided) UNTIL JANUARY 1, 2002, WHEN THE ENTIRE BALANCE, INCLUDING PRINCIPAL AND INTEREST SHALL BE FULLY DUE AND PAYABLE.

17. Inclusion of Personal Property: It is agreed between Buyer and Seller that the property conveyed by the within Land Sale Contract includes the following personal property, which said personal property items are attached to the real property improvements conveyed by the within instrument. These items include 1) pellet stove, 2) porch swing, 3) double oven range, 4) curtains, drapes and shades, and 5) wood burning stove, in AS IS condition. Buyer and Seller agree that there shall be no specific

conveyance of title to the said personal property item to Buyer until payment in full of the balance hereof, and that the said personal property shall be treated as attached to and an improvement on the real property conveyed hereby, to be conveyed to Buyer only upon completion of payments to be made pursuant to the within Land Sale Contract.

19. Late Payment Penalty: In addition to any other remedy afforded Seller herein, Seller shall be entitled to receive payment in the amount of Thirty and Ninety Five hundredths (\$30.95) Dollars in addition to the regularly scheduled payments set forth in paragraph 16 hereinabove as and for a late payment penalty, should Buyer fail to make any payment required to be made hereunder within fifteen (15) days of the day due. Seller shall be required to notify both Buyer and the escrow agent named herein (or its successor) of the accrual of such late payment charge, which such charge shall be credited only as an additional charge to Buyer and not as a credit to either interest or principal;

IN WITNESS WHEREOF, the parties have caused this agreement to be executed this 17th day of January, 1995.

SELLERS:

BUYER:

X Lyle J. Sheldon
X Dianne M. Sheldon

Brendan Brien

STATE OF OREGON/County of Klamath) ss.

PERSONALLY APPEARED the above-named LYLE J. SHELDON and DIANNE M. SHELDON, and acknowledged the foregoing instrument to be their voluntary act and deed.
Dated before me this 23rd day of January, 1995.

Kristen L. Redd
NOTARY PUBLIC FOR OREGON
My Commission Expires: 11/16/95

ATTACH NOTARIZATION OF BUYER'S SIGNATURE HERE.

(X) Brendan Brien

SIGNED SEALED AND DELIVERED
BY BRENDAN BRIEN IN THE
PRESENCE OF THE UNDERSIGNED
GERARD F. GRIFFIN, NOTARY
PUBLIC FOR THE COUNTY AND
CITY OF DUBLIN, REPUBLIC
OF IRELAND, COMMISSIONED
FOR LIFE, THIS 17TH DAY
OF JANUARY, 1995.

Brendan Brien

GERARD F. GRIFFIN
NOTARY PUBLIC
COMMISSIONER FOR OATHS
77 TERENURE ROAD NORTH
DUBLIN 6W

[illegible]

Brendan

GERALD F. GRIFFIN
NOTARY PUBLIC
COMMISSIONER FOR OATHS
12 FERRIERE ROAD NORTH
DUBLIN 9

1. The assessment roll and the tax roll disclose that the premises herein described have been specially assessed as Farm Use Land. If the land becomes disqualified for the special assessment under the statute, an additional tax may be levied; in addition thereto a penalty may be levied if notice of disqualification is not timely given.
2. Right of Way Easement, subject to the terms and provisions thereof;
Dated: June 12, 1977
Recorded: July 8, 1977
Volume: M77, page 12124, Microfilm Records of Klamath County, Oregon
Grantor: Lyle J. Sheldon and Dianne M. Sheldon
In favor of: Pacific Power & Light
3. Right of Way Easement, subject to the terms and provisions thereof;
Dated: June 29, 1977
Recorded: July 8, 1977
Volume: M77, page 12126, Microfilm Records of Klamath County, Oregon
In Favor of: Pacific Power & Light
4. Agreement for easement, subject to the terms and provisions thereof;
Recorded: June 30, 1978
Volume: M78, page 14158, Microfilm Records of Klamath County, Oregon
Grantor: Lyle J. Sheldon and Dianne M. Sheldon
Grantee: Robert N. Frizzell and Helen J. Frizzell
5. Right of Way Easement, subject to the terms and provisions thereof;
Dated: June 23, 1981
Recorded: July 2, 1981
Volume: M81, page 12031, Microfilm Records of Klamath County, Oregon
Grantor: Lyle J. Sheldon and Dianne M. Sheldon
In favor of: Pacific Power & Light
- Corrected Right of Way Easement, subject to the terms and provisions thereof;
Recorded: November 10, 1982
Volume: M82, page 15744, Microfilm Records of Klamath County, Oregon
6. Telephone Right of Way Easement, subject to the terms and provisions thereof;
Dated: May 5, 1984
Recorded: August 3, 1984
Volume: M84, page 13245, Microfilm Records of Klamath County, Oregon
Grantor: Lyle J. Sheldon and Dianne M. Sheldon
In favor of: Telephone Utilities of Eastern Oregon, Inc.
7. Order for Establishing a Statutory Way of Necessity, subject to the terms and provisions thereof;
Dated: July 6, 1977
For: Perpetual ingress and egress easement 20 feet wide
(Reference is made to the document for particulars.)

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Mountain Title Co
 of Jan A.D. 19 95 at 11:20 o'clock A M. and duly recorded in Vol. M95
 of Deeds on Page 1755
 FEE \$55.00
 Bernetha G. Letschr County Clerk
 By Pauline M. Sullivan