

Seller's Name and Address: Arthur W. Davina, Jr.  
8881 Aurora Court, Klamath Falls, OR 97603

Buyer's Name and Address: Keith A. Stotts  
6745 Eberlein Ave., Klamath Falls, Oregon 97603

After Recording Return to: AmeriTitle  
222 South 6th St., Klamath Falls, OR 97601

Until Change is Requested  
Send Tax Statements to: Arthur W. Davina, Jr.  
8881 Aurora Court, Klamath Falls, OR 97603

The true and actual  
consideration stated in this  
instrument is: \$ 210,000.00 .

*NTC S4007-TM*  
**LAND SALE CONTRACT**

**THIS CONTRACT** is made and entered into this 5 day of October, 2001, effective the 1st day of October, 2001, by and between **ARTHUR W. DAVINA, JR.**, hereinafter called "Seller", and **KEITH A. STOTTS**, hereinafter called "Buyer" (it being understood that the singular shall include the plural if there are two or more sellers and/or buyers).

**W I T N E S S E T H:**

Seller agrees to sell to Buyer and Buyer agrees to buy from Seller for the price and on the terms and conditions set forth hereafter all of the real property situate in the County of Klamath, State of Oregon, and more particularly described as follows:

"All that portion of the SE 1/4 SE 1/4 of Section 15, Township 39 South, Range 9 East of the Willamette Meridian lying North of the right of way of the Great Northern Railway, EXCEPTING THEREFROM that portion lying within Summers Lane or Johns Avenue rights of way, also EXCEPTING THEREFROM that portion conveyed to Klamath County by Judgment entered September 26, 1980 in Klamath County Circuit Court Case No. 79-92L."

SUBJECT TO contracts and/or liens for irrigation and/or drainage, restrictions, easements, restrictions and rights-of-way of records, 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 roads or highways.

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 pursuant to this agreement as October 1, 2001. The previously existing Lease whereby an involuntarily dissolved Limited Liability Company (of which Buyer is an authorized agent) is Lessee is agreed to be terminated effective September 30, 2001.

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. **Purchase Price and Payments:** The purchase price for the interest conveyed is the sum of **Two Hundred Ten Thousand Dollars (\$210,000.00)** payable as follows:

(a) Buyer has received a credit pursuant to a preexisting Option agreement, such credit being in the sum of **Four Thousand Eight Hundred Dollars**; and

(b) Buyer shall pay an initial payment in the sum of **Three Thousand Two Hundred Dollars (\$3,200.00)**; and

(c) The remainder of the purchase price in the amount of **Two Hundred Two Thousand Dollars (\$202,000.00)** shall be payable in monthly installments (amortized over a 20 year term) in the sum of **One Thousand Eight Hundred Seventeen and forty five Hundredths Dollars (\$1,817.45)** per month including interest at the rate of Nine percent (9.0%) per annum on the unpaid balance; the first of such payments shall be payable on the 1st day of October, 2001, with a further and like installment payable on the same day of each and every month thereafter until the full amount of principal and interest shall have been paid in full or October 1, 2021, whichever event or date shall first occur. Buyer may make advance or excess payments without penalty, and if so made, such payments shall 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.

(d) In addition to the payment of principal and interest set forth hereinabove, Buyer shall be required to pay into the collection escrow provided for hereinafter a sum equivalent to one twelfth (1/12) of the annual real property taxes assessed for the most recent tax year. It shall be the responsibility of the Seller to advise the collection escrow agent of the amount of such taxes assessed (in November of each year), and the resulting payment amount required to be paid by Buyer commencing with the next payment due; it being agreed by the parties hereto that the sum payable as and for such taxes for the period until December 1, 2001 shall be in the sum of \$198.00. It is further agreed that:

i. Seller shall pay the real property taxes assessed (in the first instance) as the same may become due; and

ii. Seller shall provide proof of such payment to the escrow agent referred to hereinafter; and

iii. The said collection escrow agent shall be and is empowered to add the amount of such real property taxes paid to the unpaid balance payable pursuant to the within Contract.

**4. Late Payment Penalty:** In addition to any other remedy afforded Seller herein, Seller shall be entitled to receive payment in the amount of Ninety and eighty seven Hundredths Dollars (\$90.87), (Five percent of the monthly payment due) in addition to the regularly scheduled payments set forth herein 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.

**5. Payment of Liens and Taxes:** Buyer shall pay promptly all indebtedness incurred by Buyer's 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 (in accordance with the procedure set out hereinabove), 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 prorated 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 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 therefor.

6. **Insurance:** It is agreed that 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.

7. **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 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.

8. **Transfer of Title:** Seller shall, upon the execution hereof, make and execute in favor of Buyer a good and sufficient deed in statutory Special Warranty form conveying said property free and clear of all liens and encumbrances, except as provided hereinabove and shall place said documents, together with one of these agreements, in escrow at AmeriTitle, 222 South Sixth Street, Klamath Falls, Oregon, and shall enter into written escrow instructions in a 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.

9. **Property Taken "As Is":** Buyer certifies that this contract of purchase is accepted and executed on the basis of Buyer's 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, that no attempt has been made to influence Buyer's 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, with no express, implied, or other warranties by Seller.

10. Consent to Assignment: Buyer shall not assign this agreement, Buyer's rights thereunder, or in the property covered thereby without the written consent of Seller. 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 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.

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

12. Default: In case Buyer shall fail to make the payments aforesaid, or make 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 Seller, shall, at his option, have the following rights, in addition to other remedies provided under Oregon law:

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 Buyer as against Seller hereunder shall utterly cease and determine, and the right to the possession of the premises above described and all other rights acquired by Buyer hereunder shall revert to and revest in 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 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. 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.

**13. 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 Seller's security interest herein, and in the event possession is so taken by Seller, Seller shall not be deemed to have waived Seller's right to exercise any of the foregoing rights.

**14. 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.

**15. No Waiver:** Buyer further agrees that failure by Seller at any time to require performance by Buyer of any provision thereof 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.

**16. 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.

**17. Inclusion of Personal Property:** It is agreed between Buyer and Seller that no personal property is conveyed with this agreement.

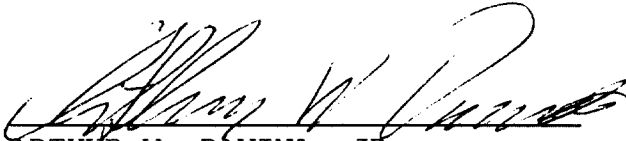
**18. Representation By Attorney:** The parties hereto acknowledge that this contract was prepared by NEAL G. BUCHANAN, Attorney at Law, 435 Oak Avenue, Klamath Falls, Oregon 97601, solely on behalf of the Seller / Vendor and that said attorney in

51698

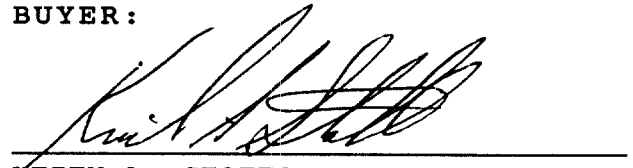
no way represents the Buyer / Vendee, who has been advised to seek the advice of his independent counsel and tax advisor.

IN WITNESS WHEREOF the parties have caused this agreement to be executed as of the day and year first above written.

SELLER:

  
ARTHUR W. DAVINA, JR.

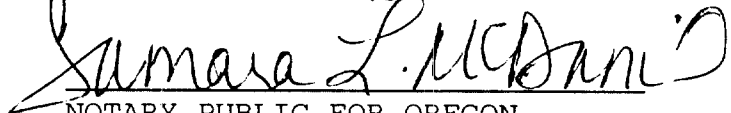
BUYER:

  
KEITH A. STOTTS

STATE OF OREGON, County of Klamath ) ss.

PERSONALLY APPEARED the above-named Arthur W. Davina, Jr.  
and Keith A. Stotts  
and acknowledged the foregoing instrument to be their  
voluntary act(s) and deed(s).  
Dated before me this 5 day of October, 2001.



  
NOTARY PUBLIC FOR OREGON

STATE OF OREGON, County of Klamath ) ss.

PERSONALLY APPEARED the above-named \_\_\_\_\_  
and acknowledged the foregoing instrument to be \_\_\_\_\_  
voluntary act(s) and deed(s).  
Dated before me this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

\_\_\_\_\_  
NOTARY PUBLIC FOR OREGON

State of Oregon, County of Klamath  
Recorded 10/10/01 at 2:09 p m.  
In Vol. M01 Page 51692  
Linda Smith,  
County Clerk Fee \$ 51.00