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State of Oregon, County of Klamath  
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Linda Smith, County Clerk  
Fee \$ 126.00 # of Pgs 22

## RECORDING COVER SHEET

THIS COVER SHEET HAS BEEN PREPARED  
BY THE PERSON REPRESENTING THE  
ATTACHED INSTRUMENT FOR RECORDING.  
ANY ERRORS IN THIS COVER SHEET DO NOT  
AFFECT THE TRANSACTION(S) CONTAINED  
IN THE INSTRUMENT ITSELF.

### After Recording, Return To:

AmeriTitle

Attention: Kristi Redd

300 Klamath Ave.

Klamath Falls, Oregon 97601

1. Name(s) of the Transaction(s): Purchase and Sale Agreement

2. Direct Party (Grantor): Larry Mittnacht and <sup>\*</sup>LR Enterprises Inc.

\*mittnacht

3. Indirect Party (Grantee): Rimon Jada and Sana Jada and Zuhair  
Jada and Maha Jada

4. True and Actual Consideration Paid: n/a

5. Legal Description: 4239 Greensprings Drive, Klamath Falls, Oregon  
97601. Lots 3,4 & 5 of Block 3 of Steward Addition, to City of Klamath  
Falls, Klamath County, Oregon.

12600  
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**PURCHASE AND SALE AGREEMENT**

This Purchase and Sale Agreement ("Agreement") last dated below is made by and between Larry Mittnacht and LR Enterprises Inc. (collectively, "Sellers") and Rimona Jada and Sana Jada, husband and wife, and Zuhair Jada and Maha Jada, husband and wife, (collectively, "Purchasers") subject to the terms, conditions and covenants which follow:

\* mittnacht

**1. PURCHASE AND SALE**

1.0 Sellers agree to sell and Purchasers agree to purchase the following real and personal property (collectively "property") as follows:

A. The following real property commonly known as Ray's Market, located at 4239 Green Springs Drive, Klamath Falls, Oregon 97601, the legal description of which is Lots 3, 4 & 5 in Block 3 of Steward Addition, to the City of Klamath Falls, Klamath County, Oregon.

B. The following personal property located within the real property at Ray's Market: all heating, cooling, refrigeration, all kitchen equipment, counters, check stands, shelves and apparatus, coolers, tanks, pumps, and petroleum vending equipment, laundromat, washers, dryers and change machines, all of which is shown in the inventory attached hereto and marked as Exhibit "1", and incorporated herein by reference, and acknowledged by Sellers and Purchasers within the period of due diligence review set forth in paragraph 6 below.

C. Inventory of petroleum, petroleum products, food, food stuffs and sundries to be valued at cost, which inventory of approximately \$85,000.00, shall be added to and made part of the purchase price as described in paragraph 2 below.

**2. PURCHASE PRICE**

2.0 Purchase Price: The purchase price for the Property shall be the sum of the real property and personal property described in paragraphs 1.0 A and B above, in the amount of \$975,000.00 plus inventory in an approximate amount of \$85,000.00, the exact amount of which shall be determined at closing, which sums shall be the purchase price, ("Purchase Price").

2.1 Payment Terms: The purchase price shall be paid:

A. \$50,000.00 cash as evidenced by good and sufficient funds placed on deposit in the trust account of Seller's attorney, Aspell, Della-Rose & Richard, Attorneys at Law, 122 South 5<sup>th</sup> Street, Klamath Falls, Oregon, 97601, which funds shall be applied to payment under the terms of this Agreement.

B. The further sum of \$250,000.00 to be paid at time of closing.

C. The remaining balance of \$760,000.00 (as adjusted at closing) shall be evidenced by a promissory note issued by all Purchasers, jointly and severally, in the sum of

\$760,000.00 as adjusted at closing, to bear interest at 8% fixed, through May 31, 2010, and thereafter to be adjusted to bear interest at prime plus 2.75%, as established from the prime rate published by the Wall Street Journal as effective on May 31, 2010, to thereafter be adjusted annually on the 31<sup>st</sup> day of May in each subsequent year thereafter. During the term of this Agreement, which note shall be payable with interest accruing from the date of closing and amortized over a period of 15 years from the date of closing with the first installment due on the first day of October 2005, with a similar installment payment on the first business day of each month thereafter, to a term ending June 30, 2020, when the entire unpaid balance shall be fully payable. Purchasers' obligation shall be subject to a first deed of trust on the subject property, a Uniform Commercial Code security agreement and all personal property, fixtures and inventory subject to provisions of additional collateral as provided below.

### 3. PAYMENT TERMS

3.0 Calculation of Interest: Interest on the unpaid balance shall be credited on the daily rate. Installments made herein other than balloon payments shall be credited towards unpaid interest.

3.1 Prepayments: Purchasers shall have the right of prepayment of any installment subsequent to January 1, 2006, together with the right to make balloon payments on the obligation. All payments made by Purchasers to Sellers through the collection escrow described herein shall be deemed to be installment payments unless separately set forth by Purchasers as balloon payments. Unless designated in writing at the time of delivery, a balloon payment shall not suspend Purchasers' obligation to pay the next installment payment therein.

3.2 Late Payments: Sellers may assess a late payment of 5% of the monthly installment payment of any payment not received by collection escrow agent by 5:00 p.m. on the 10<sup>th</sup> business day following the date any payment is due. The late payment shall, at the option of Sellers, be added back to the principal balance, or shall be added to the installment payment next due upon written notice delivered to purchasers and to escrow agent. The failure to pay any late payment properly assessed shall constitute a term of default under the terms of the note and security given.

3.3 Balloon Installment: Purchasers shall pay not later than May 31, 2007, a balloon installment of \$100,000.00 to be applied towards the accrued and unpaid interest and thereafter principal balance existing as of the date of payment. The payment of the balloon installment shall not cause a re-adjustment in the monthly payments thereafter due, nor serve to suspend the next monthly payment due thereon, nor result in a re-amortization of the monthly installments subsequently due. Provided however, that Purchasers may waive payment of the balloon installment pursuant to paragraph 6, additional security, as provided hereinafter.

### 4. ESCROW AND TITLE

4.0 Condition of Title:

A. Purchaser has requested, and as a condition of closing shall receive, at Seller's expense, a preliminary title report on the real property (the "preliminary report") prepared by the title company, together with complete and legible copies of all documents relating to the title exceptions referred to in such preliminary report.

B. Purchaser shall have the right to disapprove, in the exercise of its reasonable discretion, any title exceptions or survey matters (whether or not disclosed on the preliminary report), and Purchaser shall notify Seller of any such disapproval with the contingency period (as defined in section 6(a) below). All title exceptions set forth in the preliminary report and not disapproved within such period shall constitute the "permitted encumbrances". Seller shall at its expense remove, or cause to be removed, all monetary liens, encumbrances and assessments on the property (both real and personal property), including without limitation, the liens described in section 4.2(a)(v). Seller may, but shall not be obligated to remove any disapproved exceptions (collectively the "disapproved matters") or, in the alternative, obtain title insurance in a form satisfactory to Purchaser insuring against the effect of the disapproved matters. Seller shall notify Purchaser within five (5) days after receipt of Purchaser's notice of disapproved matters whether Seller will remove the same within the foregoing parameters. If such disapproved matters are not removed or endorsed over on or before the closing date, Purchaser may elect (i) to terminate this Agreement, or (ii) to waive such disapproved matters (such disapproved matters shall then be deemed permitted encumbrances). If Purchaser elects to terminate this Agreement, this Agreement shall become null and void with no further obligation on the part of either party and any money or documents in escrow shall be returned to the party depositing the same.

4.1 Vesting of Title: At closing, legal title to the real property shall be conveyed by separate warranty deed subject to the permitted encumbrances. Title shall vest in Purchasers in accordance with written instructions from Purchasers and Sellers deposited into escrow prior to closing.

4.2 Title Insurance: Evidence of satisfactory title shall be in the form of an owner's title insurance policy, issued by Amerititle, in an amount of \$700,000.00 as to the property described in Exhibit "1", subject only to the permitted encumbrances together with encumbrances including mortgages, trust deeds or security instruments permitted or suffered by Purchasers as incidental to the financing of this transaction. Such policy endorsements are herein referred to as the "title policy".

## 5. SECURITY AGREEMENTS

5.0 Sellers shall issue a purchase money deed of trust to secure purchase of the real property and a Uniform Commercial Code security agreement, and deliver financing statements as provided herein.

5.1 Trust Deed. Purchasers shall issue to Sellers a Purchase Money Deed of Trust on a standard form Stevens-Ness Trust Deed. It shall be given:

- A. To secure the unpaid purchase money on the Real Property, and
- B. As additional collateral as and for the promissory note given in payment of the purchase of the Business Property described in paragraph 2.2 above.

5.2 Additional Provisions: The Trust Deed shall include the following additional provisions:

A. That Purchasers shall pay all Real Property taxes, liens, and assessments, including irrigation and drainage assessments, promptly as they become due and payable and shall not the same to fall into default. Purchasers shall provide proof of payment of the same to Sellers not later than March 15 of each and every year.

B. Purchasers agree to insure property against loss from fire, wind or hail in the amount of not less than full replacement value and provide Sellers with proof of insurance and a lenders/loss payable endorsement.

C. Purchasers may not sell, assign, transfer, pledge or hypothecate or otherwise assign their interest in and to the Real Property, either directly or indirectly, save and except as may result upon their death. Any attempt of assignment, transfer, pledge or hypothecation or sale shall, at the option of Sellers, result in a breach of this Agreement and entitle Sellers to demand payment of the entire unpaid principal balance.

D. The Trust Deed may include future advances by Beneficiary to Maker.

5.3 Security Agreement: This instrument shall constitute a security agreement within the meaning of the Uniform Commercial Code with respect to all property being sold and transferred to purchasers under the terms of this Agreement including, but not limited to, the assumed business name, business equipment, supplies, leasehold improvements, heating, cooling, refrigeration, kitchen equipment, counters, check stands, shelves, apparatus, cooler tanks, pumps, petroleum vending equipment, inventory of petroleum, petroleum products, food, food stuff, sundries, cash and receivables, including accessions and additions thereto. Sellers may require Purchasers to execute in any and all necessary financing statements in a form required by the Uniform Commercial Code to cause the same to be delivered for filing at Sellers expense in all appropriate offices. This Agreement further authorizes Sellers, without prior notice to Purchasers, to execute and submit for recording all extensions thereto. Sellers may at any time and at their option without further authorization from Purchasers file copies of this Agreement as a financing statement. Sellers shall upon request of Purchasers after discharge of all affirmative duties or obligations under this Agreement, deliver to Purchasers a UCC termination statement covering all collateral described by such Uniform Commercial Code filing statement previously filed and of record in one or more offices.

## 6. ADDITIONAL SECURITY

6.0 In lieu of application of the additional balloon payment as referenced in paragraph

3 above, Purchasers may deliver to Sellers, a second deed of trust to be secured upon residential real property situate in Klamath County, Oregon, meeting the following terms:

- A. Deed of trust shall be inferior only to a purchase money first deed of trust.
- B. Purchasers shall deliver one or more appraisals to the subject property evidencing Purchasers net equity of not less than \$100,000.00 in the subject property.
- C. The trust deed shall not be released except:
  - 1) Upon payment of the outstanding principal balance due under the terms of the note;
  - 2) The sum of \$100,000.00, whichever is the lesser; or
  - 3) Upon applying the net proceeds of sale of the subject residential real property as may be derived by subsequent sale.

## 7. CLOSING

7.0 Closing Agent: Sellers have designated Amerititle, 300 Klamath Avenue, telephone number (541) 883-3401, as closing and escrow agent for this transaction.

7.1 Closing Date: Closing of the purchase and sale hereunder shall occur on July 1, 2005, or on such other date as the parties may agree (the "closing"), a date on which the deed is recorded is called the closing date. The consummation of the purchase and sale hereunder shall occur on October 1, 2004, or on such other date as the parties may agree (the "closing"). The date on which the deed is recorded is herein called the "closing date". The title company shall act as escrow agent hereunder, and the closing shall be held at its offices.

7.2 Transactions at Closing: The following events shall occur on or before the closing date:

- A. Seller shall deliver to escrow the following items, duly executed and acknowledged by Seller where appropriate:
  - 1) The earnest money funds previously deposited by purchasers;
  - 2) Funds necessary to close the transaction;
  - 3) A warranty deed to the real property described in Exhibit "1", free and clear of all claims, liens and encumbrances except the lien of non-delinquent real property taxes and any permitted encumbrances;

- 4) A bill of sale conveying the personal property described in Exhibit "1";
- 5) Evidence satisfactory to Purchasers of the termination or release of any liens in, to or on the properties in connection with the closing, including mortgages, trust deeds or security interest granted therein;
- 6) Escrow instructions and such other documents requested by Purchasers or the title company for the closing, including, without limitation, such certificates to confirm that Purchaser is not required to withhold part of the purchase price pursuant to section 1445 of the Internal Revenue Code of 1986, as amended (the "code") or any similar statute;
- 7) Evidence satisfactory to Purchaser that all personal property (other than personal property), including all such personal property owned by Seller, has been removed from the real property; and
- 8) Cancellation by Sellers of the assumed business name filing with the Oregon Secretary of State for Ray's Market.

B. Purchasers shall deliver to escrow agent the following items:

- 1) Funds necessary to close this transaction;
- 2) Purchasers' promissory note and first deed of trust;
- 3) UCC financing statements;
- 5) Escrow instructions and such other documents requested by Seller or the title company for the closing;
- 6) The purchase price; and
- 7) Executed proof of sale of inventory.

C. Jointly the parties shall deliver to escrow agent, the following:

- 1) Signed copy of this Agreement together with all addenda, including all inventories, waivers and acknowledgments.

## **8. PRORATIONS AND FEES**

8.0 Prorations and fees shall be allocating at closing as follows:

8.1 Prorations; Closing Costs:

A. The following shall be pro-rated between Sellers and Purchasers:

- 1) Ad valorem and similar taxes and assessments for the then current tax year relating to the real property;
- 2) Personal property taxes on the personal property for the current tax year, relating to the personal property;
- 3) Purchasers shall reimburse Sellers  $\frac{1}{2}$  the cost of preparing the necessary sale documents (including this Purchase and Sale Agreement), up to a total of \$1,000.00.

B. The following fees shall be paid as follows by Seller:

- 1) The cost of Title Insurance;
- 2) Seller shall pay any brokerage fee; and

C. Seller shall pay one-half ( $\frac{1}{2}$ ) and Purchasers shall pay one-half ( $\frac{1}{2}$ ) of the following:

- 1) Escrow fees;
- 2) Closing costs;
- 3) Costs of Deed recordation.

8.2 Calculation of Prorations: All prorations shall be made on the basis of the actual number of days of the year and month which shall have elapsed as of the day of the closing. The amount of the prorations shall be adjusted in cash at closing or as soon thereafter, as and when complete and accurate information becomes available. Seller and Purchasers agree to cooperate and use their best efforts to make such adjustments with thirty (30) days after the closing. Except as set forth in this section 5, all items of income and expense for the period before the closing will be for the account of Seller, and all items of income and expense for the period on and after the closing will be for the account of Purchasers, all as determined by the accrual method of accounting. For purposes of calculating prorations, Purchasers shall be deemed to be in title to the property, and, therefore, entitled to the income therefrom and responsible for the expenses thereof for the entire day upon which the closing occurs. Bills received after the closing which relate to expenses incurred, services performed or other amounts allocable to the period prior to the closing shall be paid by Seller.

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## 9. PURCHASERS' CONTINGENCIES

9.0 Contingent Period: Purchasers shall have until 5:00 P.M. on June 10, 2005 to investigate the property, including (without limitation) the physical condition thereof, the condition of title, and any legal, regulatory, economic feasibility, environmental and other matters relating to the property or Purchasers' acquisition thereof deemed appropriate or desirable by Purchasers. The period ending upon the expiration of June 10, 2005 is herein call the "contingency period". At any time prior to the expiration of the contingency period, Purchasers may terminate this Agreement for any reason by so notifying Seller in writing. If so terminated pursuant to this section, this Agreement shall become null and void and all documents in escrow shall be returned to the party depositing the same. Further, after deducting the costs of cancellation fees of the escrow agent and title company, the reimbursement of any direct costs of Sellers, the reimbursement to Sellers of Sellers' attorney's fees in preparing this sale and purchase agreement, and effecting any compliance with the terms of this Agreement, the remaining funds shall be returned to Purchasers. If the agreement is not so terminated, the Purchasers shall be deemed to have elected to purchase the property.

9.1 Inspection During Contingent Period: On or prior to expiration of the contingency period, Sellers shall provide Purchasers with copies of all documents and information available to Sellers pertaining to the property as requested by Purchasers. Sellers shall be under duty or obligation to create one or more documents, or obtain termite, dry-rot, whole building inspections, structural, seismic, electric, plumbing or other inspection. Documents delivered to Purchasers from Sellers shall be provided in accommodation only. Unless otherwise provided within this agreement, no document, report or other information provided shall constitute an express affirmation of fact by the Sellers, nor warranty, representation or covenant, except as that warranty, representation or covenant is otherwise contained within this Agreement or any document appended hereto. Sellers hereby grant Purchasers, their agents and representatives immediate access throughout the contingency period to inspect, review and copy any and all such documents or information. The inspection rights of Purchasers shall include the right to take soil samples (including bore samples) and to conduct such groundwater and other engineering or geological tests or physical inspection as Purchasers deem appropriate.

## 10. REPRESENTATIONS AND WARRANTIES OF SELLERS

10.0 Warranties: Sellers represent and warrant that each of the following is true in all respects as of the date of this Agreement and will also be true and correct as of the closing:

10.1 Violations of Laws: To the best of the Sellers' knowledge, there are no violations by Sellers with respect to the Property of any ordinance, statute, order, injunction, rule or regulation of any governmental or quasi-governmental agency with jurisdiction over the Property, and Sellers have not received any written notice of any such potential violation from any such governmental or quasi-governmental agency.

10.2 Governmental Actions: To the best of the Sellers' knowledge, there is no

pending or contemplated governmental action or activity, including without limitation, any planning or zoning designations, special assessment districts, condemnation action or private purchase in lieu thereof, environmental regulation, or health or safety regulation that would in any way adversely affect the intended use of or the value of the property or result in a special assessment.

10.3 Transfer of Property: The execution of this Agreement or the other closing documents, or the transfer of the property, by Sellers will not conflict with or result in any violation of any agreement to which Sellers are a party or any order, writ, injunction or decree of any court or any governmental or quasi-governmental agency with jurisdiction over the property or Sellers.

10.4 Foreign Person: Neither Seller is a "foreign person" within the meaning of section 1445(f)(3) of the Internal Revenue Code, "Code", and no portion of the purchase price is required to be withheld by Purchasers pursuant to section 1445 of the code or any similar federal, state or local statute, and the regulations promulgated thereunder.

10.5 Authority; Enforceability: The individuals who have executed this Agreement and the other Closing Documents have full power and authority to enter into this Agreement and the other Closing Documents and to perform the same in accordance with their respective terms. Each of the Closing Documents constitutes the legal, valid and binding obligation of Sellers, enforceable in accordance with their respective terms except as may be limited by bankruptcy, insolvency or other laws affecting the enforcement of creditors' rights generally.

10.6 Environmental Matters:

A. Sellers represent and Purchasers acknowledge that the real property is now and has been in use as a gasoline dispensing station. Sellers represent that they are not now under any form of investigation, enforcement order, clean-up or abatement program in relation to the storage or dispensing of petroleum products from the subject site.

B. Sellers shall provide Purchasers, their agents and contractors access to the subject property and all parts thereof to conduct all commercially reasonable tests for hazardous material. "hazardous materials" shall mean, (1) any chemical, substance, material, mixture, contaminant, or pollution now and hereinafter defined as a "hazardous substance" under the Comprehensive Environmental Response Compensation Liability Act, as amended from time to time, and all regulations thereunder, as amended from time to time, or "hazardous substance" as defined by ORS 453.005. (2) Petroleum crude oil or any fraction thereof; (3) any pollutant, contaminants, special waste or toxic substance now or hereafter listed, defined by or subject to regulation under any federal, state or local statute, ordinance, rule, regulation, standard policy, guidance, permit, order, administrative or judicial decision or pronouncement, previously, currently, or hereafter in effect, as amended from time to time pertaining to health, safety or the environment including without limitation natural resources, environmental regulation, contamination, pollution clean up or disclosure.

C. Sellers shall deliver to Purchasers any and all releases necessary to obtain access to any and all records maintained by any federal, state, county or local regulatory agency in reference to any and all tests, studies, analyses, survey, removal, repair or replacement of underground storage tanks and all certifications thereof as compiled by the Environmental Protection Agency and the Oregon Department of Environmental Quality.

D. Sellers represent they have not received any summons, complaint, order, citation, directive, notice of violation letter, or other written or oral communication from any federal, state or local agency concerning any intentional or unintentional action or omission which allegedly violates any environmental law or regulation.

E. During the period of due diligence review, Purchasers shall conduct such studies, make such inquiry, perform such tests to ascertain the condition of the property, at Purchasers' costs and expense.

F. Upon close of the transaction, Purchasers shall release, acquit, satisfy, and forever discharge Sellers and Sellers' successors, representatives, successors, assigns and all persons from any past, present and future claims including but not limited to claims of contribution or indemnity, and all other cause of action, suits, debts, sums of money, accounts, reckoning, bonds, bills, covenants, contracts, agreements, promises, variances, trespass damages, judgments, executions, claims and demand whatsoever in law, including administrative actions or in equity which Purchasers ever had, now have or in the future can, shall or may have against the Sellers for, upon or for any reason, or any matter, cause of action or thing whatsoever arising from or relating to the treatment, storage, disposal, handling, spillage, leakage, or presence in any form in any soil, surface waters, ground waters, or real property of any of the wastes or hazardous materials or hazardous substances as herein defined.

G. Purchasers agree to indemnify, hold harmless, defend Sellers and all Sellers' successors, representatives, successors, assigns and all other persons from any liability, claim, demand, action, cause of action, suit, loss, damage, injury, expense, cost, settlement or judgment of any kind or nature, including but not limited to demands, fines, remediations, or penalties asserted by any governmental entity or other person as a result of any treatment, storage, disposal, handling, spillage, leakage or presence in any form in soil, surface waters, ground waters, or real property of any wastes or hazardous materials or hazardous substances as defined herein.

H. Should it become necessary for Sellers to enforce the terms and obligations of this Agreement against Purchasers, Purchasers will pay all costs and expenses incurred or related to any such enforcement activity, including but not limited to reasonable attorney's fees, and expenses of litigation.

I. The representations herein constitute independent covenants which shall not be subject to any claim of merger in the subsequent sale and delivery of title and documents but shall survive as an independent covenant subsequent to closing of the sale.

10.7 Liens: Seller has not entered into any unrecorded easements, licenses, leases or any other agreements that in any way affects title to the property. Seller has not granted to any tenant, or to any other person, any option or other right to purchase all or any portion of the property.

10.8 Title and Description of Personal Property: Seller has good and marketable title to all of personal property, free and clear of all liens, encumbrances or claims. Other than the pipes, the personal property described on Schedule 1 attached hereto is all the personal property located on the real property and is all located on the real property.

10.9 Bulk Sales: There are no applicable bulk sales requirements imposed under Oregon law ("Bulk Sales Laws") in connection with the sale of the property to Purchaser.

10.10 Representations of Purchasers: Purchasers represent:

A. That they shall purchase the subject property based upon their own independent investigation, inspection, inquiry and testing.

B. Purchasers acknowledge that the real property is being sold "AS IS". No representation as to the condition of the real or personal property has been made by Sellers except as provided in this Agreement.

C. Purchasers have purchased the subject property and the business based upon their own independent investigation of the current operation of the business, and that Sellers have made no warranties or representations of the future revenues or expenses of either the property or of the businesses being conducted thereon. Purchasers acknowledge that Sellers have made no warranties in any way pertaining to future income, expense or profitability of the business, and that Purchasers are purchasing the subject property and business contained therein based upon their own knowledge and experience in similar related businesses.

## 11. COVENANTS OF SELLER

Sellers hereby covenant that from and after the date of this Agreement and to and until closing, Sellers will:

11.0 Transfer of Property: Not alienate, lien, encumber or otherwise transfer any of the property, or any interest therein.

11.1 Notices to Purchasers: Promptly notify Purchasers of any notice they receive from any governmental agency, or in the event Sellers give, make or receive any of the following notices, reports, claims or warnings, or become aware or have reason to believe that such have been or will be given or made, immediately so notify Purchasers and provide Purchasers with a copy thereof, if available: (i) any report made to any local, state, or federal governmental agency concerning any actual or threatened use, storage, generation, production, release, discharge or disposal of any hazardous or toxic substance, material or waste in, on or in the vicinity of the real

property, including any complaints, notices, warnings, or asserted violations in connection therewith; (11) any notice of any enforcement, cleanup, removal or other governmental or regulatory action instituted, completed, or threatened with respect to any hazardous or toxic substance, material or waste located in, on or in the vicinity of the real property; or (iii) any claim made or threatened by any person against Sellers or the real property relating to damage, contribution, cost, recovery, compensation, loss, or injury resulting from or claimed to result from any hazardous or toxic substance, material or waste.

11.2 Business Operations: Sellers represent that the sale of the properties described herein represent on-going businesses of Sellers. Sellers shall continue to operate each business in the regular course, and to maintain normal hours of operation, normal inventory of groceries, food, sundries, prepared food, and petroleum products during the term of the escrow and maintain labor and employment necessary to operate the same.

## 12. ON-GOING BUSINESS

12.0 No Warranties as to Future Operations: Sellers make no warranties or representations as to the future revenues or expenses of either of the subject properties, or of the businesses conducted thereon. Sellers have made no warranties in any way pertaining to future income, expense or profitability of the business. Purchasers are purchasing the subject property and business contained therein based upon their own knowledge and experience in similar or related business.

## 13. OTHER AGREEMENTS

13.0 Transfer of Business Accounts: Sellers shall pay prior to the date of closing, all outstanding sums due on account of the purchase of materials, goods and supplies; payment of all wages, withholdings and taxes. Sellers shall hold Purchasers harmless from any and all claims, actions, suits or proceedings as may be brought for the purchase of materials, goods, supplies or labor and employment through the date of closing.

13.1 Notice to Vendors: Sellers shall disclose to Purchasers prior to the effective date of closing, the names of all vendors, suppliers, material men and contractors, and provide notice thereto of the sale of the property and of the termination of the debtor/creditor relationship with Sellers. Sellers shall cooperate with Purchasers in re-establishing the relationships with vendors, material men, contractors and suppliers.

13.2 Termination of Employment: On the effective date of closing of this transaction, Sellers shall terminate the employment relationship with all employees at the property. Sellers shall provide notice to Purchasers of the names, addresses, rates of pay, compensation and duties of each employee prior to the date of closing. Purchasers may, but shall not be required to re-employ said workers.

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#### 14. PHYSICAL CONDITION OF THE PROPERTY

14.0 Real Property: Except as provided herein, the real property described as being sold "as is" with any and all faults, if any. Sellers make no claims or promises about the condition or value of the property, included in this sale, nor any representations about its condition except as provided herein. Purchasers shall be granted opportunity to inspect the premises, conduct due diligence review, to inspect the electrical, plumbing, roof and walls to determine if there is any damage or infestation caused by termites or other destroying insects, or other conditions adversely affecting the properties.

#### 15. SALE OF BUSINESS INVENTORY

15.0 Inventory: Sellers and Purchasers acknowledge that the sale and purchase of the property described herein contemplates the sale of an on-going business but does not include cash or receivables. In this regard, Sellers and Purchasers agree:

A. At the end of business, prior to the close of escrow, Sellers and Purchasers shall perform an inventory of the inventory held for resale which shall be valued at the cost of acquisition.

B. Seller shall pay all utilities, expenses, fees, charges for any and all inventory, material or supplies delivered prior to date of closing, shall hold Purchasers harmless therefrom.

C. Sellers shall disclose to Purchasers, prior to the effective date of closing, names of all vendors, suppliers, material men and contractors; provide notice thereto of the sale of the property and of the termination of the debtor/creditor relationship with seller. Purchaser shall re-establish such relationships with vendors, material men, suppliers and contractors.

#### 16. DEFAULT

16.0 Default: Following expiration of the contingency period found at paragraph 9, this Agreement shall be of full force and effect. Thereafter if Purchasers fail to perform as and when provided by this Agreement, then this earnest money shall be released to Sellers and this Contract will be of no further binding effect. However, upon unconditional tender of all remaining sums due by Purchasers, and should Seller fail to close this sale as provided in this Agreement, the earnest money shall be refunded and Purchasers' acceptance of the refund shall not be a waiver of any and all other rights hereunder, including the rights to seek specific performance and/or damages.

#### 17. NOTICES

17.0 All notices, requests, demands, instructions and other documents shall not be effective unless personally delivered or couriered, or mailed, certified or registered mail, return receipt requested, to the following address:

If to Seller: Larry Mittnacht  
7333 Southside Bypass  
Klamath Falls, OR 97603

**51138**

If to Purchaser: Rimon & Sana Jada  
31 Panhurst Avenue  
Daly City, CA 94015

Zuhair and Maha Jada  
\_\_\_\_\_  
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A personal or courier delivered notice shall be effective on delivery; a mailed notice shall be effective upon the date shown on the return receipt or other evidence of delivery; proved, however, that if the recipient refuses to accept delivery, such notice shall be effective when mailed. The addresses may only be changed in the manner provided for giving notice.

17.1 Following Notices are provided pursuant to ORS 93.040(2) and in accordance with Oregon law:

THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS, WHICH, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND WHICH LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OF COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND EXISTENCE OF FIRE PROTECTION FOR STRUCTURES.

## **18. MISCELLANEOUS PROVISIONS**

18.0 Time: It is agreed that time is of the essence in the performance of and compliance with each provision of this Agreement.

18.1 Attorney's Fees: If any legal action, arbitration or other proceeding is commenced to enforce or interpret any provision of this Agreement, the prevailing party shall be entitled to an award of its actual expenses, including (without limitation) expert witness fees and reasonable attorney's fees and disbursements. The phrase "prevailing party" shall include a party who receives substantially the relief desired, whether by settlement, dismissal, summary judgment, judgment or otherwise.

18.2 Representation: This is expressly agreed and understood that Bradford J. Aspell of Aspell, Della-Rose & Richard, Attorneys at Law, 122 South 5<sup>th</sup> Street, Klamath Falls, OR 9760,

represents the Seller exclusively in this transaction, notwithstanding Purchasers' obligations to reimburse Seller's portion of the attorney's fees as provided above. Purchasers have been advised to seek legal counsel in advance of closing this transaction.

18.3 No Waiver: Waiver by one party of the performance of any covenant, condition or promise shall not invalidate this Agreement, nor shall it be considered to be a waiver by such party of any other covenant, condition, or promise hereunder.

18.4 Severability: If, for any reason, any provision of this Agreement shall be held to be invalid or unenforceable, such event shall not affect the validity or enforceability of any other provisions of this Agreement.

18.5 Construction: Where required by the context of this Agreement, the masculine, feminine or neuter gender and the singular or plural shall each be deemed to include the other. This Agreement shall be construed as a whole and in accordance with its fair meaning, and not in favor of or against any party. The captions are for the convenience of the parties only and shall not affect the provisions of this Agreement.

18.6 Entire Agreement: This Agreement with exhibits, along with the closing documents and the other documents to be executed in connection herewith as contemplated herein, contains the entire agreement between the parties regarding the property and supersedes all prior agreements, whether written or oral, between the parties regarding the same subject. It is the express intention of the parties that the effect of delivery of the deed at closing shall be to merge the leasehold created by the lease into the fee estate conveyed to Purchaser and such deed. This Agreement may only be modified by a subsequent written agreement signed by the party to be charged.

18.7 Further Assurances: Before or after closing, the parties shall execute and deliver all such documents reasonable necessary or desirable to effect the transactions contemplated by this Agreement.

18.9 Governing Law: Any action to enforce or interpret this Agreement may only be brought in the courts of the State of Oregon. This Agreement shall be governed by and construed in accordance with the laws of Oregon.

18.10 Successors: This Agreement shall bind and inure to the benefit of the parties hereto and to their respective transferees, assignees, executors, devisees, guardians and other successors in interest.

18.11 Counterparts: This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument.

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**19. EXECUTORY OFFER ONLY**

19.0 Seller's offer to Purchasers may be revoked by Seller at any time without prior notice. This Agreement shall be subject to acceptance when a fully executed original thereof is delivered by Purchaser to Seller, together with the earnest money deposit as provided in paragraph 2.1 (A) above. Until such time as delivery and receipt, Seller may revoke this offer to Purchaser.

**IN WITNESS WHEREOF**, the parties have executed this Agreement by their duly authorized officers as of the date as written below.

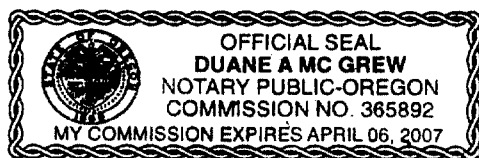
STATE OF OREGON            )  
  ) ss.  
County of Klamath         )

DATED this 25 day of May, 2005.

**SELLER:**

Larry Mittnacht  
LARRY MITTNACHT, individually and  
LR Enterprises, Inc., by Larry Mittnacht  
\*mittnacht

SUBSCRIBED AND SWORN to before me this 25<sup>th</sup> day of May, 2005, by  
Larry Mittnacht.



Duane A. McGrew  
Notary Public for Oregon  
My Commission Expires: 4/6/2007

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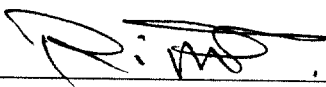
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51141

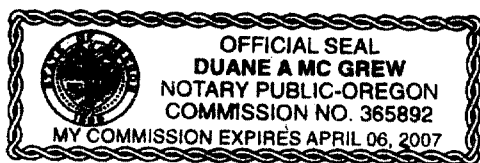
STATE OF OREGON )  
 ) ss.  
County of Klamath )

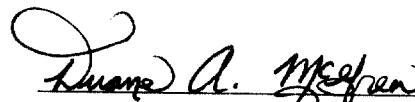
DATED this 25 day of May, 2005.

PURCHASER(S):

  
RIMON JADA

SUBSCRIBED AND SWORN to before me this 25<sup>th</sup> day of May, 2005, by  
Rimon Jada.



  
Notary Public for OREGON  
My Commission Expires: 4/6/2007

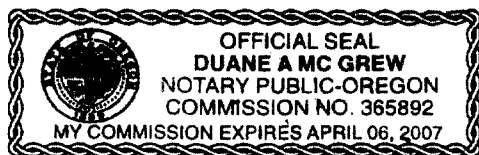
STATE OF OREGON )  
 ) ss.  
County of KLAMATH )

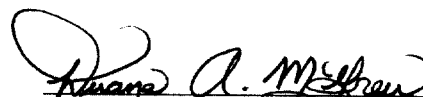
DATED this 25 day of May, 2005.

PURCHASER(S):

  
SANA JADA

SUBSCRIBED AND SWORN to before me this 25<sup>th</sup> day of May, 2005, by  
Sana Jada.



  
Notary Public for Oregon  
My Commission Expires: 4/6/2007

///

STATE OF OREGON )  
 ) ss.  
County of KLAMATH )

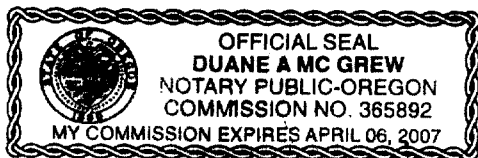
51142

DATED this 25 day of MAY, 2005.

PURCHASER(S):

Zuhair Jada  
ZUHAIR JADA

SUBSCRIBED AND SWORN to before me this 25<sup>th</sup> day of May, 2005, by  
Zuhair Jada.



Duane A. McGrew  
Notary Public for Oregon  
My Commission Expires: 4/6/2007

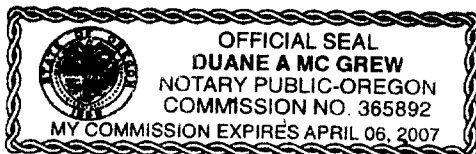
STATE OF OREGON )  
 ) ss.  
County of KLAMATH )

DATED this 25 day of May, 2005.

PURCHASER(S):

Maha Jada  
MAHA JADA

SUBSCRIBED AND SWORN to before me this 25<sup>th</sup> day of 25 May, 2005, by  
Maha Jada.



Duane A. McGrew  
Notary Public for Oregon  
My Commission Expires: 4/6/2007

# EXHIBIT "1"

## Equipment List Trade Fixtures

approximately a  
total of \$400,000-

51143

Installed  
1998  
Exxon graphics/  
2004  
Cost \$40,000

SERVICE Station Canopy - approximately 40'x60' with  
EXXON graphics

5000<sup>00</sup> 2. STORE & Handomat I.D. sign with gas price space  
& changeable #s

Installed  
1995  
Cost \$0,000

3. "2" 12,000 gal "TRUSCO" double wall steel Tanks  
(compartmentalized 9000 ul 3000 super, 7000 midgrade 5000  
diesel) w/piping

Purchased 2004  
yet to be installed  
45,000

4. "3" Gilbarco gasoline dispensers Model # 2-300s 1-500)  
(2 3 product, 1 4 product)

5000<sup>00</sup> 1996 5. INCON - automatic gasoline gauging system

8000<sup>00</sup> - 2004 6. "G" site - cashier controlled-authorize sales dispensing  
system

50,000<sup>00</sup> 7. 13 door walkin cooler - with compressor

10,000<sup>00</sup> 8. 4 door walkin freezer " "

10,000<sup>00</sup> 9. 8'x8' Deli Walkin Cooler " "

8000<sup>00</sup> 10. ATM machine

1999  
15,000 11. Shelving - Shopco brand approximately 76 linear ft., 3 Shopco Gondolas 36 linear ft.

12,000 12. Store Counter Corian top 16' w cabinets

5000 13. Fountain Counter Corian to 15'

2500 14. Ice Storage & Merchandising Freezer

4000<sup>00</sup> 15. Scotsman 1200 lb Ice Maker with 900 lb bin

~~1800 16. Ice cream & Novelty Case~~

2000 17. Mc Gray 5' refrigerated sandwich display case

2100 18. 6' Heated display warmer - "MERCÓ"

2500 19. MEAT SLICER

5000 20. NECO - Hamburger Machine - Not working

500 21. Hobart Scales

17,000 22. HENNY - PENNY Pressurized Cooker  
~~"2" Flavor CRISP Pressurized Cooker 3~~

15,000 23. 7' Stainless steel Hood with exhaust Fan

- 5000 24 Deli Counter with 3 compartment stainless steel /  
sinks with fixtures
- 3000 25. "1" Counter with hand wash sink
- 1600 26. "2" Sharp model ERA 440 Cash Registers
27. Pop canister storage room
- 200 28. Office desk & chair
- 50 30. 2 drawer file cabinet
- 50 31. Cannon Calculator
- 20,000 32 Wall surround - graphic display identifying  
departments
- 4000 33. Propane heaters (1) 50000 BTU (2) 30,000 BTU
- 100 34. Fishing Supply display case
- 1000 35. Misc - deli utensils, fire extinguishers, mop buckets, doll  
storage shelving, credit card imprinter etc
- 100 36. Down draft evaporative cooler
38. Misc Laundromat  
Equipment
- 40,000 37. 18000 sq ft Asphalt, Concrete Pad Islands, Tank Cover