

**CONTRACT OF SALE**

**2017-001959**

**Klamath County, Oregon**

**02/24/2017 01:43:01 PM**

**Fee: \$107.00**

DATED February 23, 2017

BETWEEN:

TIMOTHY SKILLINGSTAD

4930 Wocus Road

Klamath Falls, OR 97601

SELLER

AND:

RODNEY LEE THOMAS

28083 Hwy 97 North

Chiloquin, OR 97624

PURCHASER

**RECITALS**

Seller owns certain real property civilly described as 28083 Hwy 97 North, Chiloquin, Klamath County, Oregon, and more particularly described as follows, to-wit:

A tract of land situated in Government Lots 19 and 20 of Section 3, Township 36 South, Range 7 East of the Willamette Meridian, in the County of Klamath, State of Oregon, more particularly described as follows:

Beginning at an iron pin on the North line of said Government Lot 19, said point being East a distance of 253.3 feet from the Northwest corner of said Lot; thence, South parallel with the West line of said Government Lots a distance of 172.0 feet to an iron pin thence West parallel with the North line of said Government Lots 19 and 20, a distance of 698.8 feet to an iron pin on the Easterly boundary of the Dalles-California Highway; thence, Northwest along said Easterly boundary line a distance of 175.0 feet to an iron pin on the North line of said Government Lot 20; thence, East along the North Line of Government Lots 19 and 20 a distance of 732.3 feet, more or less to the point of beginning.

Map Tax Lot: R-3607-A0300-00500-00

Account No.: R321459

Seller agrees to sell the Real Property to Purchaser and Purchaser agrees to buy the Real Property from Seller for the price and on the terms and conditions set forth below.

**Tax Statement**

Until a change is requested, all tax statements shall be sent to Rodney Lee Thomas at 28083 Hwy 97 North, Chiloquin, Oregon 97624.

## **AGREEMENT**

### **SECTION 1. PURCHASE PRICE AND PAYMENT**

**1.1 Total Purchase Price.** Purchaser promises to pay to Seller as the total purchase price for the Real Property the sum of EIGHTY SIX THOUSAND AND NO/100THS DOLLARS (\$86,000.00).

**1.2. Payment of Total Purchase Price.** The total purchase price will be paid as follows:

**1.2.1 Down Payment.** The sum of THIRTY THOUSAND AND NO/100THS DOLLARS (\$30,000.00) shall be payable on execution of this Contract, and Seller hereby acknowledges receipt of this sum from Purchaser, which shall be applied to the purchase price at closing to the extent that Seller has actually received that sum in cash.

**1.2.2. Interest Rate and Scheduled Payment Dates.** Interest on the remaining balance of FIFTY-SIX THOUSAND AND NO/100THS DOLLARS (\$56,000.00) will accrue interest at the rate of five percent (5%) per annum from the Closing Date.

The unpaid balance of the purchase price will be paid in monthly installments of principal and all accrued but unpaid interest in the amount of \$393.70 each, including interest, with the first installment due on March 1, 2017, and with subsequent installments due on the same day of each and every month thereafter. Each payment will be applied first to accrued interest to the date of payment, and the balance to principal.

**1.2.3 Maturity Date.** All unpaid principal and all accrued but unpaid interest thereon must be paid in full on or before February 1, 2021. However, the Parties agree that Purchaser intends to pay this sum with proceeds from a new third-party loan. If Purchaser is unable to make this payment on February 1, 2021, after making good faith efforts to obtain a loan, the Parties agree that he shall have up to an additional two years to secure a loan. Seller may require Purchaser to provide all documentation relating to Purchaser's attempts to obtain a third-party loan, as a condition to granting Purchaser additional time to obtain a loan. In the meantime, Purchaser will continue to pay the monthly payments. On February 1, 2023, all unpaid principal and all accrued interest will become due, whether or not Purchaser has been able to secure a loan to pay such amount.

**1.3 Prepayments.** Purchaser may prepay all or any portion of the unpaid principal without penalty. Any such prepayments will be applied first to accrued but unpaid interest to date, then to the last installment of principal scheduled under this Contract, and will not excuse Purchaser from making the regular monthly payments when due under this Contract until the remaining balance has been paid in full. This paragraph does not apply to any payments due under this Contract that are accelerated because of Purchaser's default under any of the provisions of this Contract.

**1.4 Payments to Third Parties.** If Purchaser fails to pay when due any amounts required under this Contract to be paid to third parties by Purchaser, Seller may, but will not be obligated to, pay any and all such amounts directly to such third parties or otherwise cure any such failure. If Seller makes any such payments, the amounts so paid will be immediately due and payable by Purchaser to Seller. Until paid, such amounts will be secured by this Contract and will be added to the principal balance due under this Contract and will bear interest at the Contract interest rate. Seller's election to make any payments pursuant to this Section 1.4 will not constitute a waiver of Seller's right to declare Purchaser to be in default of this Contract and to exercise any remedies described in Section 15.2. In the event of any such payment by Seller, Seller will also be subrogated to the rights of the third party to whom the payment is made.

### **Warning**

Unless Purchaser provides Seller with evidence of the insurance coverage as required by our contract or loan agreement, we may purchase insurance at your expense to protect our interest. This insurance may, but need not, also protect your interest. If the collateral becomes damaged, the coverage we purchase may not pay any claim you make or any claim made against you. You may later cancel this coverage by providing evidence that you have obtained property coverage elsewhere.

You are responsible for the cost of any insurance purchased by Seller. The cost of this insurance may be added to your contract or loan balance. If the cost is added to your contract or loan balance, the interest rate on the underlying contract or loan will apply to this added amount. The effective date of coverage may be the date your prior coverage lapsed or the date you failed to provide proof of coverage.

The coverage we purchase may be considerably more expensive than insurance you can obtain on your own and may not satisfy any need for property damage coverage or any mandatory liability insurance requirements imposed by applicable law.

**1.5 Place of Payments.** All payments to Seller must be made to the escrow agent described in Section 3.4.

## **SECTION 2. TAXES AND LIENS**

**2.1 Obligation to Pay.** All ad valorem real property taxes and all governmental or other assessments levied against the Property for the 2016-2017 taxyear will be paid by Purchaser at the Closing Date by way of a refund or credit to Seller. Purchaser must pay when payable all future taxes and assessments that are levied against the Real Property after the Closing Date; however, Purchaser may elect to pay taxes and assessments in accordance with any available installment method.

**2.2 Liens and Encumbrances.** Purchaser will otherwise keep the Real Property free from all liens and encumbrances that may be lawfully imposed on the Real Property after the Closing Date.

**2.3 Tax Statements.** Purchaser will provide Seller with written evidence reasonably satisfactory to Seller that all taxes and assessments have been paid before delinquency. Purchaser will submit this evidence on the request of Seller, which request must be made no more frequently than by December 31<sup>st</sup> of each year.

### **SECTION 3. CLOSING**

**3.1 Closing Date.** This transaction shall be closed on February 24, 2017. As used in this Contract, the *Closing Date* means the date on which the escrow agent is prepared to disburse funds. The closing will occur, in escrow, at the offices of AmeriTitle, 300 Klamath Avenue, Klamath Falls, Oregon.

**3.2 Responsibility of Parties.** At closing, Purchaser must pay the amount of cash specified in Section 1.2.1 above, and Seller must have received a commitment for the issuance of a purchaser's policy of title insurance as described in Section 9.

**3.3 Prorates and Closing Costs.** Except as otherwise provided in this Contract, all items to be prorated will be prorated as of the Closing Date. Seller is responsible for paying the title insurance premium, the recording fees and the escrow set-up fee. Purchaser is responsible for the monthly escrow collection fee.

**3.4 Collection, Payment, Escrow.**

**3.4 Collection, Payment, Escrow.** Seller must deliver to Collection Escrow Department, AmeriTitle, 300 Klamath Avenue, Klamath Falls, OR 97601 as escrow agent, the deed described in Section 12, together with suitable instructions authorizing delivery after all payments have been made and all other obligations of Purchaser under this Contract have been fulfilled. The costs of setting up the escrow shall be the responsibility of the Seller, while all periodic collection fees will be the responsibility of the Purchaser.

### **SECTION 4. POSSESSION**

**4.1 Possession** Purchaser will be entitled to possession of the Real Property from and after the Closing Date, and the exterior of buildings thereon.

### **SECTION 5. MAINTENANCE AND ALTERATIONS**

**5.1 Maintenance.** There is presently one building formerly used as a residence, a well and well house and a septic system. The former residence and well house are in substantial disrepair. In addition Seller has placed or allowed to be placed on the Real Property, two old mobile homes, tires and up to 6 dump trailer loads of garbage, trash, and other types of debris.

Seller agrees to remove and dispose all of it at his expense. He shall have until July 1, 2017 to complete removal.

**5.1.1 Improvements.** . All alterations and improvements constructed by or for Purchaser must be completed without defects in conformance, lien-free, , with plans, specifications, and drawings in conformance with standards in the industry. Furthermore, Purchaser shall not raze or tear down the residence located on the property, without the written consent of the Seller.

**5.2 Compliance with Laws.** Purchaser will promptly comply and will cause all other persons to comply with all laws, ordinances, regulations, directions, rules, and other requirements of all governmental authorities applicable to the use or occupancy of the Real Property, and in this connection, Purchaser will promptly make all required repairs, alterations, and additions. Purchaser may contest in good faith by appropriate proceedings any such requirements and withhold compliance during any such proceeding, including appropriate appeals, so long as Purchaser promptly undertakes and diligently pursues such contest and as long as Seller's interest in the Real Property is not jeopardized and Seller is not subject to any civil or criminal liability on account of such failure to comply.

## **SECTION 6. INSURANCE**

**6.1 Property Damage Insurance.** Purchaser will procure and maintain policies of all-risk insurance with standard extended coverage endorsements on a replacement-cost basis, covering all improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause and with loss payable to Seller under a standard mortgagee's clause, and Purchaser as their respective interests may appear. The policies must be primary with respect to all covered risks, and must be written in such form with such terms and by such insurance companies reasonably acceptable to Seller, and naming Seller as an additional insured. Purchaser will deliver to Seller certificates of coverage from each insurer containing a stipulation that coverage will not be canceled or diminished without a minimum of ten (10) days' written notice to Seller. In the event of loss, Purchaser will give immediate notice to Seller. Seller may make proof of loss if Purchaser fails to do so within 15 days of the casualty. In the event that Seller cannot insure the Real Property improvements due to their condition, Seller shall agree to waive the insurance requirement, so long as Purchaser is making a good faith effort to improve the condition of the improvements.

**6.2 Application of Proceeds.** All proceeds of any insurance on the Real Property must be paid to and held by Seller. If Purchaser elects to restore the Real Property, Purchase will repair or replace the damaged or destroyed improvements in a manner satisfactory to Seller. On satisfactory proof of lien-free restoration of the Real Property to at least its condition and value immediately before the damage or destruction, Seller will pay or reimburse Purchaser from the proceeds for the reasonable cost of repair or restoration to the extent of such proceeds received by Seller. If Purchaser elects not to restore the Real Property, and the net proceeds are sufficient to pay all amounts owed Seller under this Contract, Seller shall retain a sufficient amount of the proceeds to pay all amounts owed Seller under this Contract, and will pay the balance to Purchaser.

**6.3 Liability Insurance.** So long as Purchaser is indebted to Seller, Purchaser shall maintain liability insurance on the Real Property with a minimum coverage of \$500,000 per occurrence.

## **SECTION 7. INDEMNIFICATION.**

**7.1 Purchaser's Indemnification of Seller.** Purchaser will forever indemnify, reimburse, and hold Seller harmless and, at Seller's election, defend Seller for, from, and against any and all claims, costs, expenses (including attorney fees), losses, damages, fines, charges, actions, or other liabilities of any description arising out of in any way connected with (1) Purchaser's possession or use of the Real Property, (2) Purchaser's conduct with respect to the Real Property, (3) any condition of the Property to the extent that the same arises from or after the Closing Date and is not caused or contributed to by Seller, or (4) Purchaser's breach of any warranty or representation made by Purchaser in this Contract. In the event of any litigation or proceeding brought against Seller and arising out of or in any way connected with any of the above events or claims, against which Purchaser agrees to defend Seller, Purchaser will, on notice from Seller, vigorously resist and defend such actions or proceedings ;in consultation with Seller through legal counsel reasonable satisfactory to Seller.

**7.2 Seller's Indemnification of Purchaser.** Seller will forever indemnify, reimburse, and hold Purchaser harmless and, at Purchaser's election, defend Purchaser for, from, and against any and all claims, costs, expenses (including attorney fees), losses, damages, fines, charges, actions, or other liabilities of any description arising out of or in any way connected with (1) Seller's possession or use of the Real Property, (2) Seller's conduct with respect to the Real Property, (3) any condition of the Real Property to the extent that the same exists on the Closing Date and is not caused by Purchaser, or (4) Seller's breach of any warranty or representation made by Seller in this Contract. In the event of any litigation or proceeding brought against Purchaser and arising out of or in any way connected with any of the above events or claims, against which Seller agrees to defend Purchaser, Seller will, on notice from Purchaser, vigorously resist and defend such actions or proceedings in consultation with Purchaser through legal counsel reasonably satisfactory to Purchaser.

**7.3 Indemnification Scope.** Wherever this Contract obligates a party to indemnify, hold harmless, or defend the other party, the obligations will run to the agents of such other party and will survive any termination or satisfaction of this contract. Such obligations with respect to the acts or omissions of either party will include the acts or omission of any director, officer, partner, agent, employee, contractor, tenant, invitee, or permittee of such party.

## **SECTION 8. REPRESENTATIONS, WARRANTIES, AND COVENANTS OF SELLER**

**8.1 Covenants of Title.** Seller warrants that Seller is the owner of fee title to the Real Property, free of all liens and encumbrances except those of record and those apparent on the ground, and will defend such title from the lawful claims of persons claiming superior title.

**8.2 No Brokers.** Seller has not employed any broker or finder in connection with the transaction contemplated by this Contract, and has taken no action, which action would give rise

to a valid claim against Purchaser, for a brokerage commission, finder's fee, or other like payment.

**8.3 Litigation.** There are no pending claims or litigations or threats of claims or litigation or other matters of which Seller is aware or by the exercise of reasonable diligence of which Seller should be aware that could adversely affect Purchaser's title, use, or employment of the Real Property.

**8.4 Hazardous Substances.** No Hazardous Substance has been disposed of, spilled, leaked, or otherwise released on, under, or from the Real Property or has otherwise come to be located on or under the Real Property. To the best of Seller's knowledge, no Hazardous Substance has been disposed of, spilled, leaked, or otherwise released on, under or from the property adjacent to or in the immediate vicinity of the Real Property. No wastes, including, without limitation, garbage and refuse, have been disposed of on the Real Property and there are no underground storage tanks on the Real Property. The term *Hazardous Substance* means any hazardous, toxic, radioactive, or infectious substance, material, or waste as defined, listed, or regulated under any law pertaining to the protection of human health or the environment, and includes without limitation petroleum oil and its fractions.

**8.5 Compliance with Laws.** The Real Property and every portion of it, and all activities conducted on the Real Property, are in compliance with all applicable federal, state, and local statutes, regulations, and ordinances. Seller is not aware of and has not received notice of any past violation of any applicable federal, state, or local statutes, regulations, or ordinances.

**8.6 Further Contracts.** Seller represents that there are no contracts, leases, or agreements relating to the Real Property, except the Permitted Exceptions, that will be binding on the Real Property or Purchaser after the Closing Date.

**8.7 Disclosure.** Seller has fully disclosed in writing and provided to Purchaser all material information in Seller's possession or that Seller owns or controls that relates to the Real Property, its condition, and the title to the Real Property.

## **SECTION 9. TITLE INSURANCE (PURCHASER'S POLICY)**

Seller will furnish at Seller's expense a purchaser's title insurance policy in the amount of \$86,000.00 within ten (10) days after the Closing Date, insuring Purchaser against loss or damage sustained by Purchaser by reason of the unmarketability of Seller's title, or liens, or encumbrances affecting the Property, excepting matters contained in the usual printed exceptions in such title insurance policies, those created or suffered by Purchaser.

## **SECTION 10. DEED**

On payment of the total purchase price for the Real Property as provided in this Contract and Purchaser's performance of all other terms, conditions, and provisions of this Contract, Seller will forthwith deliver to Purchaser a good and sufficient statutory warranty deed,

conveying the Real Property free and clear of all liens and encumbrances, except those specifically set out herein.

## **SECTION 11, DEFAULT**

**11.1 Events of Default.** Time is of the essence of this Contract. A default will occur under any of the following circumstances:

- (1) Purchaser's failure to make any payment when due.
- (2) Any default under the Prior Lien attributable to Purchaser.
- (3) Purchaser's failure to perform any other obligations contained in this Contract within fifteen (15) days after notice from Seller specifying the nature of the default or, if the default cannot be cured within fifteen (15) days, failure within such time to commence and pursue curative action with reasonable diligence.
- (4) Purchaser's making or suffering a fraudulent transfer or conveyance under applicable federal or state law; Purchaser's concealment of any of its property from creditors; Purchaser's making or suffering a preference within the meaning of the federal bankruptcy law; or the imposition of a lien through legal proceedings or distraint on any of the property of Purchaser. If one of the parties collectively referred to as Purchaser suffers an event of default under this subsection, that event of default will be considered a default of Purchaser.
- (5) Purchaser's failure to perform any terms, condition, or provision of or any default attributable to Purchaser under any existing encumbrance.

**11.2 Remedies of Default.** In the event of a default, Seller may take any one or more of the following steps:

- (1) Seller may declare the entire balance of the purchase price, including the balance of any Prior Lien assume by Purchaser for which Seller remains liable or that is a lien on the Real Property, and interest immediately due and payable.
- (2) Seller may foreclose this Contract by suit in equity.
- (3) Seller may specifically enforce the terms of this Contract by suit in equity.
- (4) If Purchaser fails to make payment within 15 days after it is due, Seller may elect to impose a late charge not to exceed TWENTY-FIVE AND NO/100THS DOLLARS (\$25.00), in addition to and not in lieu of any and all other rights and remedies available to Seller.
- (5) After complying with the notice requirements and affording Purchaser the right to cure the default contained in ORS 93.905-93.945, as the same may be amended or



superseded from time to time, as long as the same is applicable, Seller may declare this Contract forfeited and retain the amount of the payments previously made under this Contract. On recordation of the affidavit required by Oregon law, this Contract will be extinguished and canceled, and Purchaser will have no further right, title, or interest in and to the Real Property or to any return or compensation for payments previously made under this Contract, as though this Contract and such payments had never been made. In that event, Purchaser agrees to surrender the Real Property Seller. If Purchaser fails to do so, Seller may elect to treat Purchaser as a tenant holding over unlawfully after the expiration of a lease, and Purchaser may be ousted and removed as such, without affecting Seller's right to pursue other rights and remedies contained in this Contract or permitted by law.

(5) Seller will be entitled to the appointment of a receiver as a matter of right whether or not the apparent value of the Real Property exceeds the amount of the balance due under this Contract, and any receiver appointed may serve without bond. Employment by Seller will not disqualify a person from serving as a receiver. On taking possession of all or any part of the Real Property, the receiver may:

- (a) Use, operate, manage, control, or conduct business on the Property and make necessary expenditures for all maintenance and improvements;
- (b) Collect all rents, revenues, income, issues, and profits (the "Income") from the Real Property and apply those sums to the necessary expenses of use, operation, and maintenance;
- (c) At Seller's option, complete any construction in progress on the Property and, in that connection, pay all bills, borrow funds, employ contractors, and make any changes in plans and specifications as Seller deems appropriate.

If the revenues produced by the Real Property are insufficient to pay expenses, the receiver may borrow, from Seller or otherwise the amounts required for the purposes stated in this paragraph, and repayment of those sums will be secured by this Contract. Amounts borrowed from or advanced by Seller will bear interest at the same rate as the balance of the purchase price under this Contract from the date of expenditure until repaid and must be paid by Purchaser on demand.

**11.3 Nonrecourse Obligation.** In the event of the occurrence of any default in the payment of principal, interest, or both under this Contract, Purchaser will not be personally liable therefor and Seller's sole remedy for that default will be limited to foreclosure of the Real Property encumbered by this Contract or the exercise of any other rights set forth in this Contract or any other security given to secure this Contract, but will not include the right to proceed directly against Purchaser or the right to obtain a deficiency judgment after foreclosure for the collection of such sums. It is further understood and agreed, however, that nothing contained in this paragraph will in any manner or way release, affect, or impair (1) the existence of the indebtedness evidenced by this Contract, (2) the enforceability of the liens and security interests

created by, and the rights and remedies of Seller under this Contract, (3) the liability of Purchaser for the performance and observance of all covenants under this Contract, other than the covenants for the payment of principal and interest under this Contract, (4) the right of Seller to recover from the undersigned any insurance or condemnation proceeds paid or delivered to the undersigned (without imposing any obligation on Seller to pay or deliver any such sums to Purchaser) and not used by Purchaser for restoration or repair of the Real Property; (5) the right of Seller, after the occurrence of an event of default, to recover from Purchaser an amount necessary to repair any damage to the Real Property that is caused by the willful and wanton act or omission of Purchaser or Purchaser's agents, servants, employees, contractors, subcontractors, or invitees, or (6) the right of Seller to recover from Purchaser any sums expended by Seller in the performance of or in compliance with all covenants, agreements, and provisions of any leases or other agreements or obligations assigned to Purchaser that are so expended by reason of Purchaser's neglect or refusal to perform such covenants, agreements, or provisions or to prevent Seller from recovering any damages or losses incurred or suffered by Seller and any rents or other revenues lost as a result of Purchaser's failure to perform such covenants, agreements, and provisions.

**11.4 Events of Default of Seller.** A default by Seller will occur under any of the following circumstances:

- (1) Seller's failure to comply with Section 5.1 by June 20, 2017.

**11.5 Remedies of Default by Seller.** In the event of a default, by Seller, Purchaser may take any one or more of the following steps:

- (1) Purchaser may destroy or remove any of the items described in Section 5.1.
- (2) Purchaser may deduct any costs incurred by him in destroying or removing the items from the monthly installments described in Section 1.2.2, including his own labor charged at the rate of Fifteen Dollars (\$15.00) per hour. Purchaser will deliver to Seller and Amerititle Collection Escrow Department an itemized statement of labor and costs incurred during the previous month until destruction and removal are complete. Costs and labor will be applied first to accrued interest to the date of payment, and the balance to principal.
- (3) AmeriTitle will credit the costs and labor itemized as of the date of delivery of Purchaser's itemized statement to it. If the statement reflects costs and labor which are in excess of the monthly installment otherwise due, it will credit the balance together with interest at the rate of five percent (5%) against future monthly payments. If Amerititle is unwilling or unable to credit the labor and costs as described Seller will give detailed instructions to AmeriTitle crediting the amount owing with interest as described against future monthly installments, providing Purchaser with a copy of the instructions given to AmeriTitle.

## **SECTION 12. WAIVER**

The failure of either party at any time to require performance of any provisions of this Contract will not limit the party's right to enforce the provision, except to the extent expressly set forth in a writing signed by that party, nor will any waiver of any breach of any provision constitute a waiver of any succeeding breach of that provision or a waiver of that provision itself.

### **SECTION 13. SUCCESSOR INTERESTS**

This Contract is binding on and inures to the benefit of the parties, their successors and assigns; but no interest of Purchaser may be assigned, subcontracted, or otherwise transferred, voluntarily or involuntarily, without the prior written consent of Seller, which consent may not be unreasonably withheld. Seller's consent to one transfer will not constitute consent to other transfers or waiver of this section.

Purchaser and any other person at any time obligated for the performance of the terms of this Contract hereby waive notice of and consent to any and all extensions and modifications of this Contract or the release of any person or persons from liability under the Contract granted by Seller. Any such extensions or modifications or releases will not in any way release, discharge, or otherwise affect the liability of any person at any time obligated under this Contract.

This document is the entire, final and complete agreement of the parties pertaining to the sale and purchase of the Real Property, and supersedes any replaces all prior or existing written or oral agreements between the parties or their representatives relating to the Real Property

### **SECTION 14. NOTICE**

Any notice under this Contract must be in writing and will be effective when actually delivered in person or fifteen (15) days after being deposited in the U.S. mail, registered or certified, return receipt requested, postage prepaid and addressed to the party at the address stated in this Contract or such other address as either party may designate by written notice to the other.

### **SECTION 15. APPLICABLE LAW**

This Contract shall be governed by, and construed in accordance with, the laws of the state of Oregon.

### **SECTION 16. COSTS AND ATTORNEY FEES**

**16.1 No Suit or Action Filed.** If either party to this Contract seeks legal counsel because of a default in the payment or performance of any of its terms, the defaulting party must pay, immediately on demand, the other party's reasonable attorney fees, collection costs, costs of either a litigation or a foreclosure report (whichever is appropriate), even though no suit or action is filed thereon, and any other fees or expenses incurred by the non-defaulting party.

**16.2 Arbitration or Mediation; Trial and Appeal.** If any arbitration, mediation, or other proceeding is brought in lieu of litigation, or if suit or action is instituted to enforce or

interpret any of the terms of this Contract, or if suit or action is instituted in a bankruptcy court for a United States District Court to enforce or interpret any of the terms of this Contract, to seek relief from an automatic stay, to obtain adequate protection, or to otherwise assert Seller's interest in a bankruptcy proceeding, the party not prevailing must pay the prevailing party's costs and disbursements, the fees and expenses of expert witnesses in determining reasonable attorney fees under ORCP 68, the actual cost of a litigation or foreclosure report, and any sums that the court may determine to be reasonable for the prevailing party's attorney fees connected with the trial and any appeal and by petition for review thereof; in addition, the Court must award the prevailing attorney fees.

**16.2 Definitions.** For purposes of this Contract, the term *attorney fees* includes all charges of the prevailing party's lawyer and their staff (including without limitation legal assistants, paralegals, word processing, and other support personnel) and any post-petition fees in a bankruptcy court. For purposes of this Contract, the term *fees and expenses* includes, but is not limited to, long-distance telephone charges; expenses of facsimile transmission; expenses for postage (including costs of registered or certified mail and return receipts), express mail, or parcel delivery; mileage and all deposition charges, including but not limited to court reporters' charges, appearance fees, and all costs of transcription; costs incurred in searching records; and the cost of title reports or surveyor's reports.**SECTION 17. NUMBER, GENDER, AND CAPTIONS**

As used in this Contract, the singular includes the plural, and the plural the singular. The masculine and neuter each include the masculine, feminine, and neuter, as the context requires. All captions used in this Contract are intended solely for convenience of reference and in no way limit any of the provisions of this Contract.

## **SECTION 18. SURVIVAL OF COVENANTS**

Any covenants the full performance of which is not required before the closing or final payment of the purchase price and delivery of the deed will survive the closing and the final payment of the purchase price and the delivery of the deed and be fully enforceable thereafter in accordance with their terms.

## **SECTION 19. CONDITION OF PROPERTY**

Subject to Section 5.1, Purchaser accepts the land, buildings, improvements, and all other aspects of the Real Property in their present condition, AS IS, WHERE IS, including latent defects, without any representations or warranties from Seller or any agent or representative of Seller, expressed or implied, except for such warranties that may arise by law under the Deed and except as otherwise specifically set forth in this Contract. Purchaser agrees that Purchaser has ascertained, from sources other than Seller or any agent or representative of Seller, the condition of the Property, its suitability for Purchaser's purposes, and the applicable zoning, building, housing, and other regulatory ordinances and laws affecting the Real Property. Purchaser accepts the Real Property with full awareness of these ordinances and laws as they may affect the present use or any intended future use of the Real Property. Except for such warranties that may arise by law under the Deed and except as otherwise specifically stated in

this Contract, Seller has made no representations with respect to such condition or suitability of the Property or such laws or ordinances.

## **SECTION 20. RECORDING**

On the Closing Date, this Contract of Sale shall be recorded.

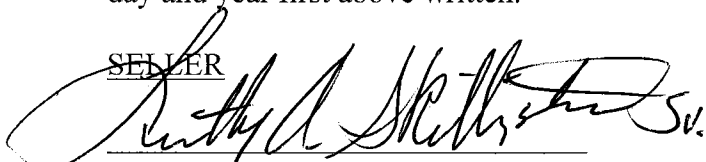
## **SECTION 21. STATUTORY DISCLAIMER**

The following disclaimer is made pursuant to ORS 93.040(2):

"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 THAT, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. 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 THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO VERIFY THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

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

SELLER

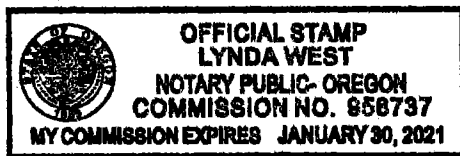
  
Timothy Skillingstad

BUYER

  
Rodney Lee Thomas

STATE OF OREGON; County of Klamath ) ss.

THE FOREGOING INSTRUMENT was acknowledged before me on the 24 day of February, 2017, by Timothy Skillingstad.



*Lynda West*  
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NOTARY PUBLIC FOR OREGON  
My Commission expires: 1-30-21

STATE OF OREGON; County of Klamath ) ss.

THE FOREGOING INSTRUMENT was acknowledged before me on the 23 day of February, 2017, by Rodney Lee Thomas.



*Lisa Legget-Weatherby*  
\_\_\_\_\_  
NOTARY PUBLIC FOR OREGON  
My Commission expires: 10/19/19