

RETURN TO, AND SEND TAX STATEMENTS TO:
Oregon Department of State Lands
Asset Management Section
775 Summer Street, Suite 100
Salem, OR 97301-1279

LAND SALE CONTRACT

THIS CONTRACT is entered into as of [_____], 20[___] (the "Effective Date"), between the STATE OF OREGON, by and through its DEPARTMENT OF STATE LANDS ("State"), and [Purchaser Name] ("Purchaser").

BACKGROUND

State is the fee owner of that certain real property located in [county] County, Oregon, described on the attached Exhibit "A" (the "Premises").

State desires to sell the Premises to Purchaser and Purchaser desires to purchase the Premises on the terms and conditions described in the Contract.

The parties agree as follows:

1. SALE AND PURCHASE. State hereby sells the Premises to Purchaser and Purchaser hereby purchases the Premises from State for a total purchase price of \$[_____] (the "Purchase Price").

2. PAYMENTS. Purchaser shall pay the Purchase Price to State as follows:

- A. Purchaser shall pay [\$xxxx] as a down payment, receipt of which is hereby acknowledged.
- B. The balance of [\$xxxx] (the "Deferred Purchase Price") will accrue interest at the rate of [X%] per annum, which will begin accruing as of the Effective Date.
- C. Purchaser shall pay the Deferred Purchase Price in equal installments of not less than [\$xxxx] per year, beginning on [date] (the "Payment Commencement Date") and continuing annually thereafter on the 1st business day of the month following the Payment Commencement Date until [last payment date], when the full amount of all remaining principal, interest, taxes, and other advances including all interest thereon, becomes due and payable.
- D. Purchaser shall make all payments to State at the following address or to such other place or person as State may designate by written notice:
State of Oregon
Department of State Lands
P.O. Box 4395, Unit 18
Portland, OR 97208-4395
- E. Purchaser may pay, without penalty, all or any part of the balance of this Contract at any time prior to the date on which the final payment is due.

3. TAXES AND ASSESSMENTS. Purchaser shall pay when due all taxes, liens, assessments, and charges, including local improvement assessments, which are or may be lawfully imposed or which constitute or will constitute liens or encumbrances against the Premises. If Purchaser fails or refuses to discharge any taxes, liens, assessments, or charges prior to the time they become delinquent, State, at its option, may pay the same and add the amount expended to the unpaid balance of this Contract.

4. POSSESSION; USE. Purchaser is entitled to possession of the Premises on the [Payment Commencement Date] [Effective Date]. Purchaser may use the Premises for any purpose consistent with the conditions, reservations and restrictions described in Section 12, but shall not [cut or remove any timber or minerals or] commit any waste of the Premises before this Contract has been fully performed.

Purchaser shall promptly comply and cause all other persons under Purchaser's control to comply with all laws, ordinances, regulations, directions, rules, and other requirements of all governmental authorities applicable to the use or occupancy of the Property. Purchaser shall not do or allow any act or omission on or about the Property that could subject the Premises or Seller's or Purchaser's interest in the Premises to forfeiture or the risk of forfeiture.

5. STATE OF TITLE. State makes absolutely no representations or warranties of title. Purchaser's sole recourse for any defects in title is against any policy of title insurance Purchaser may elect to obtain. State shall not cause, permit or suffer any instrument to be recorded with respect to the Premises during the term of this Contract without the prior written consent of Purchaser.

6. INDEMNIFICATION.

- A.** Purchaser shall forever defend, indemnify, and hold State harmless from any claim, loss, or liability arising out of or in any way connected with Purchaser's possession or use of the Premises, conduct with respect to the Premises, or any condition of the Premises. If any litigation or legal proceedings are brought against State arising out of or in any way connected with any of the above events or claims against which Purchaser agrees to defend State, Purchaser shall, upon notice from State, vigorously resist and defend such actions or proceedings through legal counsel reasonably satisfactory to State. Counsel must accept appointment as a Special Assistant Attorney General under ORS Chapter 180 before such counsel may act in the name of, or represent the interests of, the State of Oregon, its officers, employees or agents. State may elect to assume its own defense with an attorney of its own choice and its own expense at any time State determines important governmental interests are at stake. State shall promptly provide Purchaser with notice of any claim that may result in an indemnification obligation. Subject to the limitations noted above, Purchaser may defend a claim with counsel of its own choosing provided that the Purchaser or its insurer may not settle or compromise any such claim without the consent of State.
- B.** Subject to the limitations of Article XI Section 7 of the Oregon Constitution and the Oregon Tort Claims Act (ORS 30.260 through 30.300), State shall forever defend, indemnify, and hold Purchaser harmless from any claim, loss, or liability arising out of or in any way connected with State's possession or use of the Premises, State's conduct with respect to the Premises or any condition of the Premises to the extent the same exists on the [Payment Commencement Date] [Effective Date] and is not caused or contributed to by Purchaser, or State's breach of any warranty or representation made by State in this Contract. If any litigation or legal proceedings are brought against Purchaser arising out of or in any way connected with any of the above events or claims, against which State agrees to defend Purchaser, State shall, upon notice from Purchaser, vigorously resist and defend such actions or proceedings through legal counsel reasonably satisfactory to Purchaser.

7. CERTIFICATE OF SALE. Upon payment of 20% of the Purchase Price, a Certificate of Sale that details the sale, the financial obligations and the real estate interest of the Purchaser will be delivered to Purchaser upon request.

8. DEED. Upon payment of 60% of the Purchase Price, accrued interest, taxes and any other charges, and if Purchaser is then in compliance with all terms of the Contract, Purchaser may exchange the Certificate of Sale for a bargain and sale deed, together with a promissory note for the remaining balance of the Contract and a trust deed or mortgage securing the note.

9. CONDITIONS, RESERVATIONS, AND RESTRICTIONS. The Premises are subject to the following conditions, reservations, and restrictions, all of which have been considered in determining the Purchase Price and all of which will be recited in the Deed:

- A.** The Premises are subject to special assessments, existing restrictions, reservations and easements of record, if any [including those described in Exhibit "B"].

- B. Purchaser shall not place junk, scrap, debris, trash, waste, hazardous materials or other such materials on the Premises, until the terms of this Contract have been satisfied. If Purchaser violates this condition, State's authorized officers, agents, or employees may enter upon the Premises and remove or destroy any unauthorized junk, scrap, debris, trash, waste or other such materials and recover the cost of such removal or destruction from Purchaser.
- C. The Premises may not be used for the operation of any garbage dump or sanitary land fill, and if such use is made of the Premises, State may enter upon the Premises and restore them to the condition that existed prior to use for garbage dump or sanitary land fill purposes and recover the cost from Purchaser.
- D. The Premises may not be used for any "nuisance" as defined in ORS 105.555, or so as to constitute an "illegal drug manufacturing site" as that term is defined in ORS 453.858, as those statutes may hereafter be amended, supplemented, or superseded.

The rights and remedies reserved or provided in this section are not exclusive and are not in derogation of any other right or remedy which State may have. Where any action is taken to enforce the above-mentioned conditions, State will not be liable for any trespass or conversion as to any real or personal property. If State begins legal proceedings to enforce the foregoing restrictions or for the recovery of removal or destruction costs, the prevailing party will be entitled to reasonable attorney fees and court costs. However, if Purchaser is a prevailing party, Seller's obligation to reimburse Purchaser for Purchaser's attorney fees or costs may be discharged only from current allocations of funds to Seller and only to the extent of such current allocations, and in no event may such fees or costs be deemed an obligation of the State of Oregon payable from its general fund in violation of Article XI, Section 7 of the Oregon Constitution.

10. ASSIGNMENT. Purchaser shall not transfer, convey, assign or further encumber the Premises, or this Contract or any interest in the Contract, without the written consent of State, which consent will not be unreasonably withheld, conditioned or delayed. Any transfer, conveyance, assignment or encumbrance without State's consent constitutes a default.

11. WAIVER. Any forbearance by State in exercising any of its rights or remedies, or otherwise afforded to State by applicable law, is not a waiver of and does not preclude the exercise of any such right or remedy. State's procurement of insurance or payment of liens or charges against the Premises is not a waiver of State's right to accelerate the maturity of the indebtedness secured by this Contract.

12. DEFAULTS.

- A. Time and the prompt payment of all sums payable under the Contract, and the exact performance of all of the provisions contained in the Contract, are in every case of the essence of this Contract.
- B. If Purchaser fails to pay any of the installments specified in the Contract when they become due, or becomes delinquent in the payment of installments or in the payment of any taxes, assessments levied or assessed or payable against the Premises, or fails to keep the Premises free from liens and encumbrances accruing after the Effective Date, or otherwise fails to keep and perform the obligations of the Contract, State may take any one or more of the following steps:
 - a. terminate this Contract after giving Purchaser 30 days notice in writing of its intention to do so if Purchaser does not cure the default within such period;
 - b. continue this Contract in force and, in case of a continued default by Purchaser for a period of 30 days after notice to Purchaser calling attention to such default, declare the whole of the unpaid balance of this Contract, together with all accrued interest, immediately due and payable;
 - c. foreclose this Contract by a suit in equity; or
 - d. specifically enforce the terms of this Contract by a suit in equity.
- C. Upon the expiration of the 30 day period described in subsection (a) above, and the continued default in any covenant or condition by Purchaser during such period, State may, without tender of performance or suit or action, declare this Contract terminated. If this occurs, all rights of Purchaser in the Contract and all of Purchaser's estate, equity, interest, or right of possession in the Premises will immediately terminate, and all

payments made by Purchaser to State, whether on principal or interest, or for taxes, liens, or assessments, and all improvements upon the Premises, will be forfeit to State, the same being considered liquidated damages for the non-performance of this Contract, and State may immediately possess the Premises without the necessity of court action.

- D. If State initiates legal action to enforce or terminate the Contract, or to obtain possession of the Premises if Purchaser fails to surrender the Premises peaceably on default or for the collection of any unpaid installment or installments, the prevailing party will be entitled to reasonable attorney fees and costs. However, if Purchaser is a prevailing party, Seller's obligation to reimburse Purchaser for Purchaser's attorney fees or costs may be discharged only from current allocations of funds to Seller and only to the extent of such current allocations, and in no event may such fees or costs be deemed an obligation of the State of Oregon payable from its general fund in violation of Article XI, Section 7 of the Oregon Constitution.
- E. State shall be entitled to the appointment of a receiver as a matter of right, whether or not the apparent value of the Premises exceeds the amount of the balance due under this Contract, and any receiver appointed may serve without bond. Employment by State will not disqualify a person from serving as a receiver. Upon taking possession of all or any part of the Premises, the receiver shall:
 - a. use, operate, manage, control, and conduct business on the Premises and make necessary expenditures for all maintenance and improvements as in its judgment are proper;
 - b. collect all rents, revenues, income, issues, and profits from the Premises and apply such sums to the necessary expenses of use, operation, and management;
 - c. at State's option, complete any construction in progress on the Premises, and in that connection pay all bills, borrow funds, employ contractors, and make any changes in plans and specifications as State deems appropriate.

13. REPRESENTATIONS OF STATE.

A. Representations. State represents to Purchaser that the following statements are true and correct (the "Representations"):

- a. **No Condemnation, Zoning or Assessment Proceedings.** To the best of State's knowledge and belief:
 - i) there is no pending or threatened condemnation, zoning change or similar proceeding or assessment affecting the Premises, or any part of them, and no such proceeding is contemplated by any governmental entity as of the Effective Date; and
 - ii) no local improvement districts have been formed with respect to the Premises and none are being contemplated.
- b. **Litigation; Law.** To the best of State's knowledge and belief:
 - i) there is no litigation, arbitration or administrative hearing pending before any governmental authority which concerns or affects the Premises or any portion of them, and no such proceeding is threatened as of the Effective Date; and
 - ii) the Premises comply with all laws, ordinances and governmental approvals and decisions which relate to the Premises.
- c. **Land Use.** To the best of State's knowledge and belief, there are no pending changes in land use designation (comprehensive plans or zoning ordinances) which apply to the Premises.
- d. **Hazardous Materials.** For purposes of this subsection, the phrase "Hazardous Materials" means any hazardous substance or material regulated by any federal, state or local law or regulation, including (without limitation) any oil, hazardous substance, pollutant, contaminant, hazardous waste, hazardous material, dangerous waste, toxic waste, asbestos, or air pollution, as any such term or similar term is now or hereafter defined, used or understood in or under any federal, state, county, city or other governmental statute, rule, ordinance, order or regulation which relates in any way to the protection of the environment (all of which are collectively referred to as "Environmental

Laws"). With respect to Hazardous Materials, and subject to the provisions of Section 17 below, State represents that, to the best of State's knowledge and belief:

- i) there are no Hazardous Materials in, upon or buried on or beneath the Premises and no Hazardous Materials have been emitted or released from the Premises in violation of any Environmental Law, except as previously disclosed to Purchaser;
 - ii) State has not brought onto, stored upon, buried, used upon, emitted or released from, or allowed to be brought onto, stored upon, buried, used upon or emitted or released from, the Premises any Hazardous Materials in violation of any Environmental Law, except as previously disclosed to Purchaser; and
 - iii) there are no underground storage tanks located on the Premises, including (without limitation) any storage tanks which contain, or previously contained, any Hazardous Materials, and State agrees not to cause or permit any such tanks to be installed in the Premises prior to the [Payment Commencement Date] [Effective Date].
- e. **Status of State.** State is not a foreign person, foreign partnership, foreign corporation, or foreign trust, as those terms are defined in Section 1445 of the Internal Revenue Code of 1986.
- f. **Authority.** To the best of State's knowledge and belief, no consents, documents or approvals which have not been obtained are necessary to the effectiveness of the execution of this Contract by State.
- g. **Contracts and Permits.** To the best of State's knowledge and belief, there are no lease agreements, maintenance contracts, service agreements or other contracts of any nature which pertain to, cover or affect the Premises or any part of them and that will survive the [Payment Commencement Date] [Effective Date].

Whenever the phrase "to the best of State's knowledge and belief," or any variations of this phrase, are used in this Contract, then the subjects modified by such phrases are limited to matters within the actual knowledge of [State's representative], the principal representative of State actively engaged in the sale of the Premises (the "State Representative"), and do not include any knowledge that may be imputed to the State by constructive notice. State represents that the State Representative is the principal representative of State most familiar with the Premises.

- B. Limitation of State's Representations.** If prior to the Payment Commencement Date, Purchaser discovers that any Representation is not, in fact, true other than because of the intentional concealment or misrepresentation by State, Purchaser's sole recourse will be to cancel this Contract. After the Payment Commencement Date, Purchaser will have no recourse or claim against the State except for intentional concealment or misrepresentation.
- C. Changed Conditions.** If, at any time, State Representative discovers that one or more of the Representations or one of the conditions referenced in the Representations has changed, State shall immediately inform Purchaser, in writing, of the discovery. If the changed condition or Representation cannot be reasonably cured within ten days after State's discovery, then Purchaser may terminate this Contract by giving written notice of termination to State within 15 days after receipt of the notice from State, and State shall return Purchaser's down payment.

14. WARRANTIES AND REPRESENTATIONS OF PURCHASER. Purchaser warrants and represents to State that Purchaser is authorized to enter into and perform its obligations under this Contract.

15. NO FURTHER COVENANTS OR REPRESENTATIONS. Purchaser acknowledges that Purchaser has examined the Premises and any documentation supplied by State with regard to the environmental condition of the Premises, and has formed its own opinion as to its condition (including environmental condition) and value. [Except for statements or representations that may be made in Section 13 above or in other relevant sections of this Contract,] Purchaser has not relied on any statements or representations from State or any person acting on behalf of State concerning any of the following:

- A. the size or area of the Premises;
- B. the location of corners or boundaries of the Premises;

- C. Upon execution of this Contract, the parties shall cause this Contract to be recorded in the real property records of [county] County, Oregon. The Purchaser shall be responsible for all recording fees, costs and expenses.

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. THIS INSTRUMENT DOES 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 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 DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, 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.

[If using Memorandum of Contract to record, delete the notary page here, as the Memo will be notarized.]

Signed as of the Effective Date.

PURCHASER:

[Purchaser's name]

By: _____
Name: _____
Title: _____
Purchaser's name]

By: _____
Name: _____
Title: _____

STATE:

STATE OF OREGON, by and through its
DEPARTMENT OF STATE LANDS

By: _____
Stephen J. Purchase
Assistant Director

ATTACHMENTS:

- Exhibit A – Legal Description of the Premises
- Exhibit B – Restrictions, Reservations and Easements of Record

[ACKNOWLEDGEMENTS

STATE OF OREGON)
) ss.
County of Marion)

This instrument was acknowledged before me this ___ day of _____, 20__ by on behalf of the State of Oregon.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

STATE OF OREGON)
) ss.
County of _____)

This instrument was acknowledged before me this ___ day of _____, 20__ by _____ - as the _____ and authorized representative of the _____, acting under authority granted to him/her by _____.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

STATE OF OREGON)
) ss.
County of _____)

This instrument was acknowledged before me this ___ day of _____, 20__ by _____ - as the _____ and authorized representative of the _____, acting under authority granted to him/her by _____.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____]

EXHIBIT A
Legal Description of the Premises

**[EXHIBIT B
Restrictions, Reservations and Easements of Record]**