

## REAL ESTATE CONTRACT

THIS CONTRACT, made and entered into this 30 day of September, 1985, between PATRICK J. KELLEN and JOAN F. KELLEN, husband and wife, hereinafter called the "seller", and LEWIS A. JOHNSON, a single man, hereinafter called the "purchaser",

**WITNESSETH:** That the seller agrees to sell to the purchaser and the purchaser agrees to purchase from the seller the following described real estate, with the appurtenances, in Skamania County, State of Washington:

That portion of the Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$ ) of Section 23, Township 4 North, Range 7 E.W.M., described as follows: Beginning at the Northeast corner of Blaisdell Tracts according to the official plat thereof on file and of record in the office of the Auditor of Skamania County, Washington; thence Easterly parallel to the South line of the said Section 23 to intersection with the Westerly line of the county road known and designated as the Wind River Highway; thence North 08° 15' East along the westerly line of said highway to a point 250 feet South 08° 15' West as measured along the Westerly line of said highway, from the North line of the SW $\frac{1}{4}$  of the SE $\frac{1}{4}$  of the said Section 23; thence West 380 feet; thence North to intersection with the North line of the SW $\frac{1}{4}$  of the SE $\frac{1}{4}$  of the said Section 23; thence West along the North line of the SW $\frac{1}{4}$  of the SE $\frac{1}{4}$  of the said Section 23 to the Easterly line of that certain county road formerly designated as the Wind River Road; thence Southerly along the Easterly line of the said county road to the point of beginning.

The terms and conditions of this contract are as follows:

**Price and Payment Terms**

1. The purchase price is **THIRTY THOUSAND DOLLARS**, (\$30,000.00) of which **TWO THOUSAND DOLLARS** (\$2,000.00) has been paid, the receipt whereof is hereby acknowledged, and the balance of said purchase price shall be paid as follows:

(a) **TWO HUNDRED FIFTY DOLLARS** (\$250.00), or more at purchaser's option, on or before 15th day of October, 1985, and **TWO HUNDRED FIFTY DOLLARS** (\$250.00) or more at purchaser's option, on or before the 15th day of each succeeding calendar month thereafter through and including the 15th day of December, 1985,

(b) **THREE HUNDRED EIGHTY FIVE & 70/100 DOLLARS** (\$385.70), or more at purchaser's option on or before the 15th day of January, 1986, and **THREE HUNDRED EIGHTY FIVE & 70/100 DOLLARS** (\$385.70) or more at purchaser's option, on or before the 15th day of each succeeding calendar month thereafter until the balance of said purchase price shall have been fully paid,

(c) The purchaser shall have the privilege of skipping two (2) monthly installments in any calendar year beginning in 1986 during periods of unemployment, sickness or accident, which encompass a period of not less than two weeks duration. Should

the purchaser skip any installment or installments as permitted by the terms and conditions of this contract, interest at the rate of Eleven per cent (11%) per annum shall nevertheless accumulate and be payable from the next installment due.

(d) The purchaser further agrees to pay interest on the diminishing balance of said purchase price at the rate of ELEVEN per cent (11%) per annum from the 15th day of September, 1985, which interest shall be deducted from each installment payment and the balance of each payment applied in reduction of principal.

2. All payments to be made hereunder shall be made at Patrick J. Kellen and Joan F. Kellen, 8198 Thread Needle, Juneau, Alaska 99801, or at such other place as the seller may direct in writing.

3. As referred to in this contract, "date of closing" shall be October 12.

4. Purchaser may at his option pay the entire balance of the purchase price remaining due, or any part of such balance, at any time before maturity, without notice to seller and without penalty.

5. The purchaser assumes and agrees to pay before delinquency all taxes and assessments, including but not limited to any governmental improvement assessments or charges that may as between grantor and grantee hereafter become a lien on said real estate. Upon request by seller, purchaser will show proof of said payments.

#### Inspection

6. The purchaser agrees that full inspection of said real estate has been made and that neither the seller nor their assigns shall be held to any covenant respecting the condition of any improvements thereon nor shall the purchaser or seller or the assigns of either be held to any covenant or agreement for alterations, improvements or repairs unless the covenant or agreement relied on is contained herein or is in writing and attached to and made a part of this contract.

7. Purchaser is acquiring the property "as is" and seller makes no representations or warranties except as to title as set forth herein. Without limiting the generality of the foregoing, purchaser acknowledges that he has made his own independent investigation respecting the property and will be relying entirely thereon and on the advice of any consultant he may retain. Purchaser may not rely upon any representation of any party whether or not such party purports to act on behalf of seller, unless the representation is expressly set forth therein or in a subsequent document executed by seller. All representations, warranties, understandings, and agreements between purchaser and seller are merged herein and shall not survive closing.

#### Taking

8. The purchaser assumes all risk hereafter placed on said real estate or of the taking of said real estate or any part thereof for public use and agrees that any such taking shall not constitute a failure of consideration. In case any part of said

real estate is taken for public use, the portion of the condemnation award remaining after payment of reasonable expenses of procuring the same shall be paid to the seller and applied as payment on the purchase price herein unless the seller agrees in writing to allow the purchaser to apply all or a portion of such condemnation award to the rebuilding or restoration of any improvements damaged by such taking.

#### Insurance

9. The purchaser agrees to keep any improvements or future improvements located on the property and the contents thereof insured against loss or damage by fire, windstorm, and all other casualties covered by "all risk" or extended coverage endorsements available in the State of Washington in an amount equal to the full insurable value thereof, on the initial and renewal policy dates, with a company acceptable to the seller and with loss payable first to seller as their interest may appear, and to pay all premiums for such insurance and deliver all policies and renewals thereof to the seller. All such policies shall provide that they cannot be amended or cancelled without ten (10) days written notice to seller.

10. If seller's title to said real estate is subject to an existing contract or contracts under which seller is purchasing said real estate, or any mortgage or other obligation which seller is to pay, seller agrees to make such payments in accordance with the terms thereof, and upon default the purchaser shall have the right to make any payments necessary to remove the default, and any payments so made shall be applied to the payments next falling due the seller under this contract.

#### Deed

11. The seller agrees, upon receiving full payment of the purchase price and interest in the manner above specified, to execute and deliver to purchaser a statutory warranty fulfillment deed to said real estate, excepting any part thereof hereafter taken for public use, free of encumbrances except any that may attach after date of closing through any person other than the seller, and subject to the standard policy exceptions.

#### Possession

12. Unless a different date is provided for herein, the purchaser shall be entitled to possession of said real estate on date of closing and to retain possession so long as purchaser is not in default hereunder. The purchaser covenants to keep any improvements on said real estate in good repair and not to permit waste and not to use, or permit the use of, the real estate for any illegal purpose. The purchaser covenants to pay all service, installation or construction charges for water, sewer, electricity, garbage or other utility services furnished to said real estate after the date purchaser is entitled to possession.

#### Assignment

13. The rights hereby granted are personal to the purchaser's and seller's reliance upon purchaser's ability and integrity is a part of the consideration for this contract. Neither this contract nor any interest therein, nor the possession of the property, may be assigned or transferred by purchaser, nor shall purchaser make or enter into any contract for the sale of the property or any interest therein, without the prior written consent of seller.

Default

14. In case the purchaser fails to make any payment herein provided, the seller may make such payment, and any amounts so paid by seller, together with interest at the rate of 12% per annum thereon from date of payment until repaid, shall be repayable by purchaser on seller's demand, all without prejudice to any other right the seller might have by reason of such default.

15. Time and the covenants of purchaser are of the essence of this contract, and it is agreed that in case the purchaser shall fail to comply with or perform any condition or agreement hereof or to make any payment required hereunder promptly at the time and in the manner herein required, the seller may at their option exercise any of the following alternative remedies upon giving purchaser thirty (30) days' written notice specifying the default and the remedy to be exercised should purchaser fail to secure all defaults at the expiration of the 30-day period:

a. Suit for delinquencies. Seller may institute suit for any installments or other sums then due and payable under this agreement together with any sums advanced by seller for and the amount of any delinquencies for items such as water assessments, taxes, insurance, payments and underlying obligations and lienable items, together with interest thereon at the rate of 12% per annum from the date each such payment was advanced or due, as the case may be.

b. Acceleration. Seller may declare the entire unpaid balance of the purchase price to be immediately due and payable and institute suit to collect such amounts, together with any sums advanced by the seller for and the amount of any delinquencies for items such as water assessments, taxes, insurance, payments on underlying obligations, lienable items and other expenses incurred to protect seller's interest in the property, together with interest thereon at the rate of 12% per annum from the date of each such advance. Payment by purchaser of any judgment obtained by seller pursuant to this paragraph shall be a condition precedent to the delivery of a deed to said property by seller or by the escrow agent, if any.

c. Forfeiture. Seller may elect to declare a forfeiture of and cancellation of this contract, and upon such election being made all rights of purchaser hereunder shall cease and terminate, and seller shall be entitled to take possession of the property, and all payments made by purchaser hereunder shall be retained by seller in liquidation of all damages sustained by said default. In addition, should seller commence a quiet title action in connection with such forfeiture or defend any claim in opposition to such forfeiture, seller shall be entitled to recover from purchaser all further costs and attorneys' fees incurred therein and in any appeal. At the end of said 30-day period, seller may enter into the property and take possession thereof and purchaser shall immediately surrender possession. If a forfeiture is declared, all payments which, but for the forfeiture, would have become due during the specified 30-day period and all costs and expenses including but not limited to costs of title search and a reasonable attorney's fee, incurred by seller in connection with the default, must be paid in addition to the sums set forth in the notice of forfeiture as

a condition to reinstatement of the contract. Should purchaser pay seller an amount less than all sums required to reinstate the contract, seller's acceptance of such sums shall not be deemed a waiver of any defaults or a reinstatement of the contract, and any such sums shall be retained by seller as liquidated damages should purchaser remain in default in any respect on the expiration of the 30-day period.

d. Specific Performance. Seller may institute suit to specifically enforce any of the purchaser's covenants hereunder.

16. The waiver of seller to elect to pursue any of the above remedies at any time upon a breach of any of the terms of this contract by the purchaser shall be deemed only an indulgence by the seller with regard to that particular breach and shall not be construed, in any manner whatsoever, to be a waiver of any right of seller to pursue any of the above remedies for the same or a different breach at a subsequent time; election of the seller to utilize any particular remedy to enforce a breach of this contract shall not preclude seller from electing to use an alternate remedy to enforce a subsequent breach. Any delay or failure of seller to take action upon default shall not be construed as a waiver of said default. If seller is required to institute legal action to enforce any of the remedies indicated, purchaser agree to pay seller's costs and reasonable attorneys' fees incurred in such proceeding and any appeal thereof.

#### Notice

17. Any notice, declaration, demand, consent or communication to be given by any party to this contract to any other party shall be in writing and transmitted to the other party by either personally delivering the notice or by certified or registered mail, return receipt requested, addressed as follows:

To Purchaser:

Lewis A. Johnson  
P.O. Box 664  
Carson, WA 98610

To Seller:

Patrick J. Kellen and Joan F. Kellen  
8198 Thread Needle  
Juneau, Alaska 99801

Either party may change its address by giving written notice to the other party in the manner provided above, provided that in no event shall seller be required to send any notice to more than two (2) addressees. The mailing and registering or certifying of any such notice as herein provided shall be sufficient service thereof. Service shall be complete when such notice is registered or certified and placed in the United States mail as shown by the cancellation stamp or postage meter stamp, as the case may be.

#### Fees and Cost of Suit

18. Upon seller's election to bring suit to enforce any covenant of this contract, including suit to collect any payment required hereunder, the purchaser agrees to pay a reasonable sum as attorney's fees and all costs and expenses in connection with such suit, which sums shall be included in any judgment or decree entered in such suit.

If the seller shall bring suit to procure an adjudication of the termination of the purchaser's rights hereunder, and judgment is so entered, the purchaser agrees to pay a reasonable sum as attorney's fees and all costs and expenses in connection with such suit, and also the reasonable cost of searching records to determine the condition of title at the date such suit is commenced, which sums shall be included in any judgment or decree entered in such suit.

IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the date first written above.

Seller:

Patrick J. Kellen  
Joan F. Kellen

Purchaser:

Lewis A. Johnson

STATE OF Alaska )  
County of            ) ss. "

On this day personally appeared before me PATRICK J. KELLEN and JOAN F. KELLEN to me known to be the individuals described in and who executed the within and foregoing instrument, and acknowledged that they signed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 30 day of September, 1985.

Patrick J. Kellen  
Notary Public in and for the  
State of Alaska  
residing at Juneau

My Commission expires 9-15-89

STATE OF Washington )  
County of Skamania ) ss.

On this day personally appeared before me LEWIS A. JOHNSON to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that he signed the same as his free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 7th day of October, 1985.

Lewis A. Johnson  
Notary Public in and for the  
State of Washington, residing  
at Stevenson



PATRICK J. KELLEN  
6198 THIRTIETH AVENUE  
JUNEAU, ALASKA 99801  
AUG 1985 OCT 7 1985  
DEED 197  
L. Johnson  
d. N. New

1985  
REAL ESTATE EXCISE TAX  
OCT 7 1985  
PAID 321.00  
SKAMANIA COUNTY TREASURER