

108005

BOOK 116 PAGE 181

FILED IN RECORD
SECTION 1 WASH
BY M.L. ADAMS, TITLE

OCT 3 3 18 PM '89

E. Weisfield

GARY W. OLSON

REAL ESTATE CONTRACT

I. SPECIFIC TERMS

A. PARTIES, PROPERTY AND PURCHASE PRICE:

Date: October 1, 1989

Seller: DONALD G. STRUCK, a single man

Seller's Address: POB 889
White Salmon WA 98672

Purchaser: JOHN LEE HOLLAND, a single man

Purchaser's Address: POB 1265
Hood River OR 97031

Real Property Legal Description: Lot 4, CONSTANT OAK, according to the recorded plat thereof, recorded in Book "B" of Plats, Page 56, in the County of Skamania, State of Washington. SUBJECT TO easements, reservations and restrictions of record, AND FURTHER SUBJECT TO the restriction that no mobile home(s) may be placed on the above-described property.

Personal Property: None.

Title to be Conveyed: Statutory Warranty Fulfillment Deed
Form of Deed: As shown on preliminary commitment for title insurance #3265 issued by Mt. Adams Title Co., on Aug. 24, 1989.
Title Exceptions: (include leases)

Amount Which Has Been Paid to Seller: \$2,000.00 U.S.

Registered ✓
Indexed p
Insured p
Filed 10-6-89
Mailed

MAE-3265

Glenda J. Kimmel, Skamania County Assessor
By *DM* Parcel # 3-10-22-4-1-103

ROBERT D. WEISFIELD
Attorney-at-Law
P.O. Box 421
(218 E. Stauben)
3ingen, WA 98605
(509) 493-2772

1 Balance Due:
 2 Purchaser to
 3 Pay to Seller: \$ 12,500.00 U.S.
 4 Purchaser to Pay to
 5 Holders of Prior
 6 Encumbrances: \$ 00.00 U.S.
 7 TOTAL PURCHASE PRICE: \$ 14,500.00 U.S.

8 B. TERMS OF DEFERRED AMOUNT
 9 TO BE PAID TO SELLER:

10 Interest Rate: Ten (10%) percent per annum
 11 Installment Periods: Monthly
 12 First Installment Date: November 1, 1989
 13 Installment Amounts: \$ 200.00 U.S.
 14 Final Payment Date: Fulfillment, 19____
 15 Default Rate: Ten (10%) percent per annum
 16 Late Charge: None
 17 Prepayment Provisions: None
 18 Prepayment Premium: None
 19 Address to which Installment
 20 Amounts are to be Sent: POB 889
 21 White Salmon WA 98672

22 C. TERMS OF PRIOR ENCUMBRANCES

23 Prior Encumbrance: SELLER SHALL PAY THE PRIOR ENCUMBRANCE.

24 To be Paid By: Seller Purchaser
 25 Current Holder:
 26 Original Principal Amount: \$ _____ U.S.
 27 Interest Rate: _____ percent per annum
 28 Current Principal Balance: \$ _____ U.S.
 29 Payment Dates:
 30 Amount of Each Payment: \$ _____
 31 Secured By:
 32 Dated _____, 19____
 33 Recorded on _____, 19____
 34 Recording No. _____, 19____

13049
 REAL ESTATE EXCISE TAX
 OCT - 3 1989
 PAID 135.60
 SKAMANIA COUNTY TREASURER

ROBERT D. WEISFIELD
 Attorney-at-Law
 P.O. Box 421
 (218 E. Steuben)
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 (509) 493-2772

II. GENERAL TERMS

1. Agreement of Sale. The Seller agrees to sell and the Purchaser agrees to purchase all that certain real property and personal property described in this contract and all of the Purchaser's improvements, fixtures, timber and crops currently and hereafter located thereon (herein collectively the "property"), subject to the title exceptions listed in the specific terms hereof, to any of the prior encumbrances so listed which are not required to be discharged by the Seller prior to or at the time of the delivery of the Seller's deed to the Purchaser, and to any rights, titles, estates, leases, encumbrances and other interests suffered or created by the Purchaser, all for the considerations and subject to the terms, covenants and conditions herein contained.

2. Purchase Price. The Purchaser agrees to pay the purchase price to the order of the Seller in the manner set forth in the specific terms. The deferred portion of the purchase price which the Purchaser is to pay to the Seller shall be paid in the installment amounts, commencing on the first installment date and continuing on the same day of each installment period thereafter until the final payment date, at which time all outstanding principal, together with accrued and unpaid interest thereon, shall be due and payable. Each payment of the installment amounts shall be first applied against the costs and expenses for which the Purchaser is then liable hereunder, secondly against interest, and thirdly against the principal then due to the Seller. Interest shall commence on the date of this contract and continue to accrue until the Seller receives all of the principal, and any sums not paid within fifteen (15) days after their respective due dates shall bear the late charge set forth in the specific terms. At any time during the term of this contract, the Seller or the Purchaser shall have the right to require that all subsequent payments of installment amounts and sums for any tax or insurance reserve accounts be made through an escrow or collection account, the costs of which shall be borne by the requesting party unless otherwise agreed.

3. Prior Encumbrances. If this contract is being executed subject to any prior encumbrance, the purchase price is partially comprised of the principal due under the prior encumbrances as of the date hereof. The Seller hereby represents to the Purchaser that the execution, delivery and recordation of this contract will not cause any prior encumbrance to become in default or accelerated or the interest rate thereon to be adjusted above the interest rate stated therefor in the specific terms hereof. The Purchaser agrees with the Seller to comply with all of the terms of the prior encumbrances, including such obligations as may be in addition to those contained in or which may otherwise limit its rights under this contract, and the Purchaser hereby agrees to defend and indemnify the Seller from and against all losses, claims, demands and allegations arising as a result of the Purchaser's failure to comply with the prior encumbrances. In the event either of the parties hereto gives or receives a written notice to or from the holder of a prior encumbrance it will promptly transmit a copy of such notice to the other. The

specific terms of this contract indicate the person responsible for tendering the amounts due to the holders of the prior encumbrances, and the two subparagraphs "(a)" and "(b)" immediately following this paragraph apply to said payments to be made by the Purchaser or the Seller, respectively.

(a) Purchaser Pays Directly. If it is indicated in the Specific Terms of this contract that the Purchaser is to pay any prior encumbrances directly to the holder thereof, the Purchaser hereby assumes and covenants and agrees with the Seller to make such payments on their respective due dates and any failure of the Purchaser to do so shall constitute a default under this contract. Said payments shall be in addition to the installment amounts. The Purchaser shall be solely responsible for paying any reserve amounts for taxes, insurance premiums or other purposes to which the holder of any prior encumbrance is entitled.

(b) Seller Pays if Purchaser is Not In Default. If it is indicated in the specific terms of this contract that the Seller is to continue to pay any prior encumbrances, the installment amounts include amounts to be used to make payments on said prior encumbrances (the "Wrapped Encumbrances"). The Purchaser, in addition to the installments of principal and interest hereinabove provided for, and to the extent required from time to time by the holders of the wrapped encumbrances, shall pay to the Seller with and in addition to each of the installment amounts hereunder an amount sufficient to satisfy all tax, insurance and other reserve deposits to which such holder is entitled and which are payable prior to the next due date of said installments. So long as the Purchaser is in no manner in default hereunder, the Seller shall make or cause to be made all of the payments of principal, interest and any reserve deposits required under the wrapped encumbrances as they become due and in accordance with their respective payment terms. The Purchaser shall not attempt to make any payment directly to the holder of any wrapped encumbrance or to in any way modify the terms thereof prior to the satisfaction of that portion of the indebtedness evidenced hereby which is to be retained by the Seller; provided, however, if the Seller fails to make any payment when due under any wrapped encumbrance the Purchaser may, upon first giving the Seller fifteen (15) days' written notice of its intent to do so and if such failure is not rectified within that period, pay the delinquent installment, and any penalties, late charges or additional interest due thereon and such other costs that are required by the holder of such wrapped encumbrance to cure such default, directly to the holder of the wrapped encumbrance in default and deduct from the installment amounts next due under this contract the amounts so expended, together with interest thereon at the default rate from the date of such payment to the date the Purchaser is reimbursed or the due date of the sum against which such offset is taken. Said notice period may be reduced if necessary to avoid the exercise of any remedy by the holder of such wrapped encumbrance. In the event the Seller fails to make such payments on three or more occasions, the Purchaser shall have the right to make all ensuing payments due under any of the wrapped encumbrances directly to the holder thereof and to deduct the same from the next installment amounts due under this contract by the amounts so paid. The Seller agrees to indemnify the Purchaser from and against all costs and expenses, including attorneys' fees, which are reasonably incurred by the Purchaser as a result of any failure of the

Seller to perform its obligations under this subparagraph. The Seller shall promptly reimburse the Purchaser for any credit or reimbursement which the Seller receives from the holder of any wrapped encumbrance which results from any excess payment by the Purchaser into a tax, insurance or other reserve account.

After the Purchaser has paid the Seller all amounts due under this contract, excepting only the nondelinquent principal balances due under the prior encumbrances to be paid directly by the Purchaser, the Purchaser shall make all remaining payments due under said prior encumbrances to the holders thereof and shall indemnify and hold the Seller harmless from any failure or alleged failure on the part of the Purchaser to comply with any of the terms, covenants or conditions thereof, and the Seller shall be subrogated to the rights of the holders of said prior encumbrances to the extent the Seller makes any further payments thereon as a result of the Purchaser's default. The covenants in this paragraph shall survive the delivery of the Seller's deed and bill of sale to the Purchaser.

4. Prepayments. If prepayment is permitted by all prior encumbrances, or if the holders of all of the prior encumbrances consent thereto, the Purchaser may prepay the entire amount remaining due hereunder when that portion of the prepayment which is due to the Seller is accompanied by all interest then due to the Seller and any purchase price prepayment premium.

5. Retention of Title and Security. Except as otherwise provided herein, the Seller's title to the property and any substitutions hereof shall remain in the Seller until the Purchaser is entitled to receive delivery of the Seller's deed.

6. Possession. From and after the date of this contract, and subject to the rights of tenants under the leases identified as title exceptions, the Purchaser may enter upon and take possession of the property and, irrespective of the assignments and security interests granted in this contract, enjoy the use, rents (to the extent permitted to be collected herein), issues and profits thereof so long as such rights have not been affected by the exercise of any remedy of the Seller.

7. Taxes and Assessments. In addition to the payments hereinabove provided for, and except as otherwise discharged through any reserve account, the Purchaser shall pay before delinquency all real and personal property taxes, all general and special assessments and all other charges of whatsoever kind or nature levied or assessed by any lawful authority upon or against the property or the use thereof to the extent the same or any installments thereof are attributable to the period following the date of this contract. The prorated portion of said taxes, assessments and charges which are attributable to any period prior to the date of this contract, excluding taxes for such period assessed because of the reclassification of the use of the property, shall be paid before delinquency by the Seller. Said periods shall be determined by reference to the year in which the taxes, assessments and charges are required to be paid. If the Purchaser fails to so pay real property taxes or assessments and such failure is not rectified within fifteen (15) days following Seller's written demand to do so, and if such failure occurs two (2) or more times during the term of this contract, the Seller may, for the remaining term of this contract, require the Purchaser to deposit with each installment amount an amount

reasonably estimated by the Seller to be necessary to discharge the real property taxes and assessments next due, said estimates to be adjusted by the Seller to reflect the actual amount of such liabilities each time the real property is reassessed and a copy of such reassessment is given to the Seller. The amounts so paid which have not been applied against such liabilities shall be returned to the Purchaser with the delivery of the Seller's deed to the Purchaser. The Seller shall not be liable for interest on said deposits. If not retained in an escrow or collection account, said funds shall be maintained by the Seller in a segregated account and expended for no other purpose, with interest earned thereon, if any, being added to the sums so held; provided, however, this account may be comingled with any insurance reserve account under this contract. The provisions of this paragraph to the contrary notwithstanding, either party shall have the right to contest in good faith any tax or assessment which may have been or is hereafter levied against the property or any portion thereof so long as no portion of the property is threatened with any tax forfeiture or sale as the result of such contest. So long as such contest is pursued in good faith, the nonpayment of the amounts in dispute shall not constitute a default under this contract or afford the Seller the right to require tax reserve payments.

8. Indemnification. The Purchaser shall and hereby covenants and agrees to indemnify and hold the Seller harmless for any losses, damages, costs, claims and liabilities, including attorneys' fees, caused by any negligent, reckless or intentional act of or negligent or reckless failure to act by the Purchaser or any of its agents, servants, employees, independent contractors, invitees or licensees on, about or with respect to the property, and for any breach of this contract by the Purchaser or any of such persons, and this covenant of indemnification shall survive the delivery of the Seller's deed to the Purchaser.

9. Utilities. The Purchaser shall pay for the cost of all electric, power, gas, sewer, water, telephone, cable television, refuse disposal service, and any and all other utilities furnished to or used or consumed in, on, or about the property by the Purchaser or by any person following the date of this contract, and Purchaser shall contract for the same solely in its own name. Any such services used prior to the date hereof by any person other than the Purchaser shall be the responsibility of the Seller.

10. Condition of Property. Except as may be otherwise provided in any written agreement between the parties hereto which is intended to survive the execution of this contract, the Purchaser hereby accepts the property in the condition existing on the date of this contract and confirms that neither the Seller nor any agent or representative of the Seller has given or made any warranty or representation whatsoever concerning the physical condition thereof or the uses or purposes to which the same may now or hereafter be placed.

11. Risk of Loss. The Purchaser shall bear the risk of loss for the complete or partial destruction or condemnation of the property after the date of this contract, but any loss, damage or destruction of all or part of the property shall not relieve the Purchaser from its obligation to observe and perform all of the terms, covenants and conditions of this contract.

Each of the parties hereto releases the other from all liability for damage caused by any act or neglect of the other party, its agents, servants and employees, to any property which is the result of fire or other casualty covered by insurance carried at the time of such casualty; provided, however, the releases herein contained shall not apply to loss or damage resulting from the willful or premeditated acts of either of the parties hereto, their agents, servants or employees; and provided further, nothing in this paragraph shall be interpreted or have the effect of relieving or modifying any obligation of any insurance company, and to the extent any such obligation is so relieved or impaired this provision shall be ineffective.

12. Maintenance and Inspection. The Purchaser shall keep and maintain the property in good repair, and shall not commit or suffer to be committed any waste or other willful damage to or destruction of the property or any portion thereof. No logging or commercial timber removal may be undertaken by the Purchaser without the Seller's prior written consent. The Purchaser shall not permit any hazardous or toxic substance, material or waste to be located upon or generated, stored, transported to or from, disposed of or used on the property or permit the property to become contaminated with any substance in violation of any applicable federal, state or local law.

13. Liens. The Purchaser shall not cause, authorize or permit any mechanics' or materialmen's liens to be placed upon the property. The Purchaser shall indemnify and defend the Seller against all liens levied against the property or any part thereof caused by or through the Purchaser. The Purchaser shall have the right to contest said liens so long as a foreclosure thereof is prevented, and if such contest is pursued in good faith the filing of the lien and withholding payment of the lien amount so disputed shall not constitute a default under this contract. No lien or any agent, contractor, subcontractor, or independent contractor of the Purchaser shall encumber any interest of the Seller in the property. In the event the Purchaser shall alter, repair or improve the real property or erect or construct any new or additional buildings or improvements on the real property or any part thereof (whether acting with or without Seller's consent), all such alterations, repairs, improvements, replacements and additions, including any new buildings and improvements, shall immediately be and become the property of the Seller and subject to all of the terms, covenants and conditions of this contract.

14. Compliance with Laws and Restrictions. The Purchaser shall faithfully observe, perform and comply with all laws, ordinances, rules and regulations of every governmental authority affecting the property and the use thereof and activities thereon; all easements, reservations, restrictions, covenants and conditions of record affecting or pertaining to the property and the use thereof and activities thereon; and any condominium, planned unit development, or cooperative declarations, articles, bylaws, rules, regulations or other documents which have been or are hereafter adopted with respect to the property. The Purchaser shall not use or permit any person to use the property for or in connection with any unlawful purpose or in any manner which causes a nuisance, or in violation of any federal, state or local statute or ordinance governing the use or improvement of the property or any hazardous or toxic materials, products or wastes.

15. Agricultural Provisions. There are no agricultural provisions.

16. Condemnation. If the property or any part thereof is condemned or taken by power of eminent domain by any public or quasi-public authority, the Seller or the Purchaser or both may appear and defend or prosecute in any such proceeding. All compensation or awards received from the condemning authority by either the Seller or the Purchaser shall, subject to the requirements of any prior encumbrances, be applied first to the payment of the expenses of litigation, next to the acquisition and installation costs of any replacements or restorations of condemned property requested by the Purchaser in writing not later than fifteen (15) days following the date possession is required to be surrendered by the condemning authority, next to the reduction of the unpaid balance of this contract in the inverse order of its maturity, next to any other sums then due to the Seller (including accrued and unpaid interest and reimbursable advances and expenses), and the surplus, if any, shall be paid to the Purchaser. The prepayment premium shall not be added to any payments required by this paragraph. All of the replacements and restorations shall have the same purpose and function as the condemned property, and, except as otherwise consented to by the Seller in writing and except to the extent necessitated by the condemnation or then applicable law, none of the replacements or restorations may be materially different from the condemned property. Any condemnation awards used to restore or replace any of the property shall be deposited in a disbursement account and disbursed in the manner specified herein for insurance proceeds following an insured casualty. No total or partial taking of the property by condemnation shall constitute a failure of consideration or provide a basis for the rescission of this contract.

17. Transfer of Purchaser's Interest. If the Purchaser's title to the property or any portion thereof is conveyed to any person, the Seller may, at its option: (a) following any required notice, declare the entire remaining balance of the purchase price and all accrued and unpaid interest thereon immediately due and payable, or (b) adjust the interest rate on this contract, effective as of the date of the transfer. The Seller may elect one of said options by written notice to the Purchaser within fifteen (15) days after being advised in writing of the sale and the transferee, and if such election is not made within that period the above rights for the transaction so described shall be deemed waived. If the Seller elects to adjust the interest rate, and subject to any restrictions and prepayment requirements contained in any prior encumbrance, the entire outstanding balance of this contract may be prepaid at the closing of such conveyance with the prepayment premium. For the purposes of this contract, a "conveyance" of the "Purchaser's title" shall include a transfer by real estate contract, vendee's assignment, deed, forfeiture, foreclosure, sheriff's sale, trustee's sale, deed in lieu of any such involuntary sale, lease with purchase option or for a term in excess of three (3) years (including extension options), and, if the Purchaser is a corporation or partnership, a voluntary or involuntary transfer of any share or partnership interest which results in a change of fifty percent (50%) or more of the voting control of such entity (from the composition thereof as of the date of this contract). A "conveyance" of the "Purchaser's title" shall not include (1) a lease or other

transfer of possession of the property for three (3) years or less without options to purchase the property or any interest therein; (ii) a transfer to the purchaser's spouse or children; (iii) a transfer by devise, descent, or operation of law resulting from the death of any person comprising the Purchaser; (iv) a transfer into an inter vivos trust in which the Purchaser is and remains a beneficiary and which does not relate to a transfer of rights of occupancy in the property; or (v) a transfer resulting from a decree of dissolution of marriage, legal separation agreement, or property settlement agreement in which a spouse of any person comprising the Purchaser retains or acquires the property. No transfer of the property or any portion thereof shall release the transferring person from liability on this contract unless such release is expressly acknowledged by the Seller in writing.

18. Purchaser's Default. The Purchaser shall be in default under this contract if it (a) fails to observe or perform any term, covenant or condition herein set forth or those of any prior encumbrances, or (b) fails or neglects to make any payment of principal or interest or any other amount required to be discharged by the Purchaser precisely when obligated to do so, or (c) becomes or is declared insolvent or makes an assignment for the benefit of creditors, or files any debtor's petition or any petition is filed against it under any bankruptcy, wage earner's, reorganization or similar act, or (d) permits the property or any part thereof or its interest therein to be attached or in any manner restrained or impounded by process of any court, or (e) abandons the property for more than thirty (30) consecutive days (unless the property is otherwise occupied), or (f) conveys the property or a portion thereof without any prior written consent required herein of the Seller.

19. Seller's Remedies. In the event the Purchaser is in default under this contract the Seller may, at its election, take the following courses of action:

(a) Suit for Delinquencies. The Seller may institute suit for any installment amounts or other sums due and payable under this contract as of the date of the judgment any sums which have been advanced by Seller as of said date pursuant to the provisions of this contract, and any other damages incurred by the Seller which are caused by the Purchaser's failure to comply with any provision or agreement herein; together with interest on all of said amounts at the default rate from the date each such amount was advanced or due, as the case may be, to and including the date of collection;

(b) Acceleration. Upon giving the Purchaser not less than fifteen (15) days' written notice of its intent to do so (within which time any monetary default may be cured without regard to the acceleration), and if the default is in the nature of a failure to timely pay any principal, interest, insurance premium, tax, or other sum of money required to be paid herein or any failure to obtain any consent of the Seller herein required for a conveyance or encumbrance of the Purchaser's title to the property, or if the Purchaser commits waste on the property, the Seller may declare the entire unpaid balance of the purchase price and all interest then due thereon and the prepayment premium to be immediately due and payable and institute suit to collect such amounts together with any sums advanced by the Seller pursuant to the provisions of this contract, and together

with interest on all of said sums at the default rate from the due date or date of each such advance to and including the date of collection;

(c) Forfeiture and Repossession. The Seller may cancel and render void all rights, titles and interests of the Purchaser and its successors in this contract and in the property (including all of Purchaser's then existing rights, interests and estates therein and timber, crops and improvements thereon) by giving a Notice of Intent to Forfeit pursuant to RCW 61.30.040-070, and said cancellation and forfeiture shall become effective if the default therein specified has not been fully cured within ninety (90) days thereafter and the Seller records a Declaration of Forfeiture pursuant to RCW 61.30.040-070. The entire balance of such sums due and to become due under this contract shall be paid from the proceeds of any sale ordered by a court pursuant to RCW 61.30.120, including interest at the default rate to and include the sale date and all expenses incurred by the Seller as a result of such sale. Upon the forfeiture of this contract the Seller may retain all payments made hereunder by the Purchaser and may take possession of the property ten (10) days following the date this contract is forfeited and summarily eject the Purchaser and any person or persons having possession of the said property by, through or under the Purchaser who were properly given the Notice of Intent to Forfeit and the Declaration of Forfeiture. In the event the Purchaser or any person or persons claiming by, through or under the Purchaser who were properly given the Notice of Intent to Forfeit and the Declaration of Forfeiture remain in possession of the property more than ten (10) days after such forfeiture, the Purchaser, or such person or persons, shall be deemed tenants at will of the Seller and the Seller shall be entitled to institute an action for summary possession of the property, and may recover from the Purchaser or such person or persons in any such proceedings the fair rental value of the property for the use thereof from and after the date of forfeiture, plus costs, including the Seller's reasonable attorneys' fees. To the extent permitted by applicable statute, the Seller shall have the right to obtain a deficiency against the Purchaser following the forfeiture of this contract for damages caused by waste to the property;

(d) Judicial Foreclosure. To the extent permitted by any applicable statute, the Seller may judicially foreclose this contract as a mortgage, and in connection therewith, may accelerate all of the debt due under this contract if the defaults upon which such action is based are not cured within fifteen (15) days following the Seller's written notice to the Purchaser which specifies such defaults and the acts required to cure the same (within which time any monetary default may be cured without regard to the acceleration); provided, however, such cure period shall be extended for up to thirty (30) additional days to the extent reasonably necessary to complete the cure of a nonmonetary default if the Purchaser commences such cure within fifteen (15) days following the Seller's notice and pursues it with due diligence. The Seller may, but shall not be required, to complaint. The prepayment premium shall be assessed upon any amounts accelerated pursuant to the terms of this paragraph, and all such amounts shall bear interest at the default rate from and after the date they are so accelerated to and including the date of collection;

(e) Specific Performance. The Seller may institute suit to specifically enforce any of the Purchaser's covenants

hereunder, and the same may include redress by mandatory or prohibitive injunction;

(f) Entry Upon Agricultural Property. No agricultural property is involved;

(g) Remedies Under the Uniform Commercial Code. The Seller shall have and the Purchaser hereby grants to the Seller all of the rights and remedies contained in the Uniform Commercial Code in effect in the State of Washington as of the date of the Purchaser's default and to the extent such remedies may be applicable to the type of collateral affected thereby;

(h) Receivership. The parties hereto recognize and agree that in the event of default by the Purchaser in making any payments or in the performance of any of the other terms and conditions of this contract, the period of time involved in repossessing the property, forfeiting this contract, or in obtaining possession of the property by judicial process could cause irreparable damage to the Seller and to the property or the possible acceleration of the debts secured by the prior encumbrances. Therefore, the Purchaser hereby expressly agrees that in the event of any default under this contract which is not cured the Seller shall have the right to apply to the Superior Court of the county in which the real property is situated for the appointment of a receiver under Chapter 7.60 of the Revised Code of Washington (or any chapter supplemental thereto) to take charge of and maintain control of, manage, farm, or operate the property, to evict tenants therefrom who are not then in compliance with their leases, to lease any portion or all of the property in the name of the Purchaser on such terms as the receiver may deem advisable, to make such alterations, repairs and improvements to the property as the receiver may deem advisable, and to receive all rents and income therefrom and issue receipts therefor, and out of the amounts that are so received to pay all of the debts and obligations for which the Purchaser is liable hereunder prior to or during the period of the receivership, including, without limitation, payments on or for this contract, prior encumbrances, taxes, assessments, insurance premiums, utility bills and costs of operating, maintaining, repairing and managing the property. Any sums received by the receiver in excess of said amounts shall be retained by the receiver to discharge all remaining liabilities of the Purchaser under this contract until the entirety of such obligations have been satisfied, at which point any remaining excess shall be paid to the Purchaser without interest. Regardless of the application thereof, no sums requested by or paid to the receiver shall be deemed a partial cure for the purpose of requiring a notice of insufficient cure to be given to any person under RCW 61.330.090(3); and

(i) Property Rental. In the event this contract is forfeited or foreclosed as herein provided, or in any other manner permitted by law, or by mutual agreement of the Purchaser and the Seller, and the Purchaser shall thereafter remain in possession of the property beyond any period otherwise permitted by law, the Purchaser agrees that it will occupy the property as a tenant at will, and the Purchaser shall be obligated to pay, and hereby promises to pay, during the period of such tenancy at will, a fair market rental in the amount then agreed to by the parties or, in the absence of such agreement or until such agreement is reached, an amount equal to two (2) times the

installment amount as and when provided for in the specific terms hereof, and the Seller shall have, in addition to all other remedies for the collection of rentals and the recovery of possession that are available to landlords under the laws of the State of Washington, the right to institute and maintain an action for summary possession of the property as provided by law.

20. Purchaser's Remedies. In the event the Seller should default in any of its obligations under this contract and such default continues for fifteen (15) days after the Purchaser gives the Seller written notice specifying the nature thereof and the acts required to cure the same, the Purchaser shall have the right to specifically enforce this contract, institute suit for its damages caused by such default, or pursue any other remedy which may be available to the Purchaser at law or in equity.

21. Remedial Advances. If either party to this contract shall fail to timely pay and discharge any payments or sums for which it has agreed to be responsible herein and said failure constitutes a default under this contract, or shall by any other act or neglect violate the terms and any conditions of this contract or of any prior encumbrance, the other party hereto may pay, effect or discharge such sums as are necessary to cure such default. Upon affording the party required to make such payment not less than fifteen (15) days' prior written notice (except in any instance in which the Purchaser fails to obtain or maintain any insurance required herein or when immediate payment is required to avoid immediate hazards to persons or property or any foreclosure of or a similar action against or affecting any portion of the property, in which cases such notice may be given concurrently with or immediately following such payment). The party making such payment may recover from the defaulting party, upon demand, or through offsetting the same against existing or future debts, the full cost and expense of so doing, including its reasonable attorneys' fees and together with interest on said expenditures and fees at the default rate from the date of expenditure to and including the date of collection or the due date of any sum against which such offset is effected.

22. Cumulative Remedies; Waivers. The remedies stated herein are cumulative and not mutually exclusive and the Seller or the Purchaser may pursue any other or further remedies to enforce their respective rights under this contract; provided, however, except as provided in this contract with respect to the Purchaser's transfer of the property, the Seller shall not have the right to accelerate the remaining balance of the purchase price in the event the Seller elects to forfeit the Purchaser's interest in the property and such forfeiture is being enforced or is completed. In any action or proceeding to recover any sum or to enforce any remedy provided for herein, no defense of adequacy of security or that resort must first be taken against any particular security or any other person shall be asserted, and the Purchaser hereby expressly waives any legal or equitable rights that the Purchaser may have with respect to marshaling of assets. The Seller shall not be required to tender its deed or bill of sale as a condition precedent to the enforcement of any remedy hereunder. In the event any check is tendered which is not honored upon first presentation because of any stop payment directive or insufficient funds, the payee's rights shall be reinstated as if such check had not been delivered. No waiver of any rights of either party under this contract shall be effective unless specifically evidenced in a written agreement executed by

the waiving party. Any forbearance, including, without limitation, a party's acceptance of any payment after the due date or any extension thereof, shall not be considered a waiver of such party's right to pursue any remedy hereunder for subsequent defaults of the same or a different nature or for breach of any other term, covenant or condition hereof.

23. Costs and Attorneys' Fees. If either party shall be in default under this contract, the nondefaulting party shall have the right, at the defaulting party's expense, to retain an attorney or collection agency to make any demand, enforce any remedy, or otherwise protect or enforce its rights under this contract. The defaulting party hereby promises to pay all costs and expenses so incurred by the nondefaulting party, including, without limitation, collection agency charges; notice; expenses of preparing, serving, mailing, posting, publishing and recording any notices; title search expenses; and reasonable attorneys' costs and fees, and the failure of the defaulting party to promptly pay the same shall itself constitute a further and additional default. In the event either party hereto institutes, defends or is involved with any action to enforce the provisions of this contract, the prevailing party in such action shall be entitled to reimbursement by the losing party for its court costs and reasonable attorneys' costs and fees, including such costs and fees that are incurred in connection with any foreclosure; public sale; action for specific performance, injunction, damages, waste, deficiency judgment, unlawful detainer, or to contest the reasonableness of any person's bankruptcy, probate, appeal, or other proceeding. All reimbursements required by this paragraph shall be due and payable on demand, may be offset against any sum owed to the party so liable in order of maturity, and shall bear interest at the default rate from the date of demand to and including the date of collection or the due date of any sum against which the same is offset.

24. Notices. Any notices required or permitted by law or under this contract shall be in writing and shall be sent by first class certified or registered mail, return receipt requested, with postage prepaid, to the parties' addresses set forth in the specific terms of this contract. Either party may change such address for notice and, if payments are not made to an escrow or collection account, the Seller may change the address for payments, by designating the same to the other party hereto in the manner hereinabove set forth and by causing a copy of such change to be properly recorded. All notices which are so addressed and paid for shall be deemed effective two (2) business days following the deposit thereof in the U.S. mail, irrespective of actual receipt of such notice by the addressee.

25. Time of Performance. Time is specifically declared to be of the essence of this contract and of all acts required to be done and performed by the parties hereto, including, but not limited to, the proper tender of each of the sums required by the terms hereof to be paid.

26. Paragraph Headings. The underscored word or words appearing at the commencement of paragraphs and subparagraphs of this contract are included only as a guide to the contents thereof and are not to be considered as controlling, enlarging or restricting the language or meaning of those paragraphs or subparagraphs.

27. Gender and Number. The use of any gender or neutral term shall include all genders, and the use of any number shall be construed as singular or plural, as the case may require. The terms "Purchaser" and "Seller" refer to either the singular or the plural, as the case may be.

28. Definitions. As used herein the term "property" means all of the estate, right, title and interest currently held and hereafter acquired by the Seller in and to the real property and personal property described herein and the rights, easements, privileges and appurtenances thereunto belonging or appertaining or held and enjoyed therewith, together with all timber and crops thereon and any repairs, improvements, replacements and additions thereto whether made, erected or constructed by the Seller or the Purchaser prior or subsequent to the date hereof. All capitalized terms in this contract shall have the meanings ascribed herein or set forth opposite the same in the specific terms of this contract. References to the Seller's deed or fulfillment deed herein shall include assignments of a vendee's interest under a prior real estate contract; provided, however, any form of conveyance shall contain the warranties to which the Purchaser is entitled under this contract or other agreement with the Seller.

29. Invalidity. In the event any portion of this contract should be held to be invalid by any court of competent jurisdiction, such holding shall not affect the remaining provisions hereof. The intention of the Seller is to charge the Purchaser a lawful rate of interest, and in the event it is determined by any court of competent jurisdiction that any rate herein provided for exceeds the maximum permitted by law for a transaction of the character evidenced by these presents, the amount so determined to be above the legal rate shall be applied against the last installments of principal due hereunder or, if such principal has been paid, or otherwise at the discretion of the then holder of this contract, said excess shall be refunded to the Purchaser on demand without interest, and the interest rates specified hereunder shall be reduced to the maximum rate then permitted by law for the type of transaction to which this contract pertains. The intention of the parties hereto is to assess a legal rate of interest on default, and if the default rate is determined by any court of competent jurisdiction to exceed the maximum rate of interest permitted by law for such purposes, the default rate shall be reduced to the highest rate so permitted, with any excess theretofore paid being applied against any debt of the defaulting party in inverse order of maturity, or if in excess of such debt, being refunded upon demand without interest.

30. Legal Relationships. The parties to this contract execute the same solely as a seller and a buyer. No partnership, joint venture or joint undertaking shall be construed from these presents, and except as herein specifically provided, neither party shall have the right to make any representation for, act on behalf of, or be liable for the debts of the other. All terms, covenants and conditions to be observed and performed by either of the parties hereto shall be joint and several if entered into by more than one person on behalf of such party, and a default by any one or more of such persons shall be deemed a default on the part of the party with whom said person or persons are identified. No third person is intended to be benefitted by this

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contract. All persons executing this contract in their individual capacities (or as a general partner or other capacity causing them to be personally liable) acknowledge that this agreement benefits their marital community and personal recourse may be obtained against the separate and marital community of any such person and the marital community of such person's spouse.

31. Successors. Subject to the restrictions contained herein, the rights and obligations of the Seller and the Purchaser shall inure to the benefit of and be binding upon their respective estates, heirs, executors, administrators, successors, successors in trust and assigns; provided, however, no person to whom this contract is pledged or assigned for security purposes by either party hereto shall, in the absence of an express, written assumption by such party, be liable for the performance of any covenant herein. Any assignee of any interest in this contract, or any holder of any interest in the property, shall have the right to cure any default in the manner permitted and between the time periods required of the defaulting party, but except as otherwise required by law, no notices in addition to those provided for in this contract need be given.

32. Applicable Law. This contract shall be governed and interpreted in accordance with the laws of the State of Washington and the venue of any action brought to interpret or enforce any provision of this contract shall be laid in the county in which the real property is situated. All sums herein referred to shall be calculated by and payable in the lawful currency of the United States.

33. Entire Agreement. This contract contains the entire agreement of the parties hereto and, except for any agreements or warranties otherwise stated in writing to survive the execution and delivery of this contract, supersedes all of their previous understandings and agreements, written and oral, with respect to this transaction. Neither the Seller nor the Purchaser shall be liable to the other for any representations made by any person concerning the property or regarding the terms of this contract, except to the extent that the same are expressed in this instrument. This contract may be amended only by written instrument executed by the Purchaser and the Seller subsequent to the date hereof.

Donald G. Smith
Seller

Seller

John Lee Holland
Purchaser

Purchaser

Conclusion of General Terms.