

108535

BOOK 117 PAGE 346

RECORDATION REQUESTED BY:

KLICKITAT VALLEY BANK
390 NE TOHOMISH ST
P O BOX 279
WHITE SALMON, WA 98672

WHEN RECORDED MAIL TO:

KLICKITAT VALLEY BANK
390 NE TOHOMISH ST
P O BOX 279
WHITE SALMON, WA 98672

SEND TAX NOTICES TO:

REAL ESTATE EXCISE TAX

JAN 13 1990

PAID

NA

FILED FOR RECORD
SKAMANIA COUNTY WASH
BY MT. ADAMS TITLE

JAN 9 3 28 PM '90

GARY M. OLSON

Registered ☒
Indexed, dir ☒
Indirect ☒
Filed 1-12-90
Mailed ☒

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE ONLY

ASSIGNMENT OF LAND SALE CONTRACT

THIS ASSIGNMENT OF LAND SALE CONTRACT IS DATED January 4, 1990, BETWEEN DONALD G. STRUCK (referred to below as "Grantor"), whose address is P. O. 889, WHITE SALMON, WA 98672; and KLICKITAT VALLEY BANK (referred to below as "Lender") whose address is 390 NE TOHOMISH ST, P O BOX 279, WHITE SALMON, WA 98672.

ASSIGNMENT AND GRANT OF SECURITY INTEREST. For valuable consideration, Grantor grants a security interest in and assigns to Lender all of Grantor's right, title and interest in and to the Collateral described below to secure the indebtedness and agrees that Lender shall have the rights stated in this Agreement with respect to the Collateral and the Property covered by the Contract, in addition to all other rights which Lender may have by law.

DEFINITIONS. The following words shall have the following meanings when used in this Agreement:

Agreement. The word "Agreement" means this Assignment of Land Sale Contract between Grantor and Lender, and includes without limitation all assignments and security interest provisions relating to the Collateral.

Buyer. The word "Buyer" means EDWARD AND KATHERINE D. BUSTYA, whose address is 4201 E. WALATOWA, PHOENIX, AZ. 850446.

Collateral. The word "Collateral" means all of Grantor's right, title and interest in and to the Contract and the Property covered by the Contract. In addition, the word "Collateral" includes all of the following:

- All proceeds (including insurance proceeds) from the sale or other disposition of any of the property described in this Collateral section.
- All existing or subsequently erected or affixed improvements or fixtures, all rents, revenues, income, issues, and profits from the Property, all equipment, furnishings, and other articles of personal property now or subsequently located on or used in connection with the Property, and all additions, substitutions, and replacements of any of the foregoing.
- All records relating to any of the property described in this Collateral section, whether in the form of a writing, microfilm, microfiche, or electronic media.

Contract. The word "Contract" means the land sale contract held in escrow with KLICKITAT VALLEY BANK and dated October 6, 1989 in which DONALD G. STRUCK is the seller and EDWARD AND KATHERINE D. BUSTYA is the buyer. The Contract was recorded as follows: 10/16/89 SKAMANIA COUNTY AUDITOR, VOL 116, PAGE 313 and covers the following real property located in SKAMANIA County, State of Washington:

LOT 3, 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 THE RESTRICTION THAT GRANTEE SHALL NOT PLACE A MOBILE HOME ON THE ABOVE-DESCRIBED PROPERTY. AND FURTHER SUBJECT TO RESTRICTIONS, EASEMENTS AND COVENANTS OF RECORD.

The Real Property or its address is commonly known as CONSTANT DRIVE, UNDERWOOD, WA 98651.

Grantor. The word "Grantor" means DONALD G. STRUCK.

Indebtedness. The word "Indebtedness" means all principal and interest payable under the Note and any amounts expended or advanced by Lender to discharge obligations of Grantor or expenses incurred by Lender to enforce obligations of Grantor under this Agreement, together with interest on such amounts as provided in this Agreement.

Note. The word "Note" means the promissory note or credit agreement dated January 4, 1990, in the original principal amount of \$250,000.00 from Grantor to Lender, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the promissory note or agreement.

Property. The word "Property" means all property covered by the Contract, whether real property or personal property, whether now or hereafter existing, and whether now or hereafter covered by the Contract.

Related Documents. The words "Related Documents" mean and include without limitation all promissory notes, credit agreements, loan agreements, guaranties, security agreements, mortgages, deeds of trust, and all other documents, whether now or hereafter existing, executed in connection with Grantor's Indebtedness to Lender.

RIGHT OF SETOFF. I grant to Lender a contractual possessory security interest in, and hereby assign, convey, deliver, pledge and transfer to Lender, all my right, title and interest in and to all my accounts with Lender (whether checking, savings, or some other account). This includes all accounts I hold jointly with someone else and all accounts I may open in the future. However, this does not include any IRA, Keogh or trust accounts. I authorize

Lender, to the extent permitted by applicable law, to charge or setoff all sums owing on the Indebtedness against any and all such accounts.

COLLECTIONS OF REVENUE; ACTIONS BY GRANTOR AND LENDER. This Agreement is given and accepted upon the following terms and conditions:

Notice to Buyer. Lender may notify Buyer and KLUICKITAT VALLEY BANK of this Agreement at Lender's sole discretion and with no further permission from Grantor. Lender may collect all amounts of any nature due or to become due under the Contract directly from Buyer or from KLUICKITAT VALLEY BANK and apply such sums to the Indebtedness, at Lender's sole discretion, with no further permission from Grantor, whether or not Grantor is in default under this Agreement.

Contract Balance. Grantor represents to Lender that there is no default existing under the Contract, there are no offsets or counter claims to the same, and that the Contract has an unpaid principal balance of not less than \$11,415.66.

Original Contract. Grantor agrees to deliver to Lender the original of the Contract, which Lender may retain in its possession.

Enforcement of Contract Against Buyer. In some instances below, Grantor agrees to impose certain requirements upon Buyer pursuant to Grantor's capacity as seller under the Contract. If Buyer does not meet these requirements, Grantor agrees to do so; however, nothing in this Agreement shall require Grantor to take any action beyond the rights granted Grantor under the Contract or under applicable law.

OBLIGATIONS OF GRANTOR. Grantor warrants and covenants to Lender as follows:

Right to Assign. Grantor has the full right, power and authority to execute this Agreement and to assign the Collateral to Lender.

Perfection of Security Interest. Grantor agrees to execute financing statements and to take whatever other actions are requested by Lender to perfect and continue Lender's security interest in the Collateral. Upon request of Lender, Grantor will deliver to Lender any and all of the documents evidencing or constituting the Collateral, and Grantor will note Lender's interest upon any and all chattel paper. Grantor hereby appoints Lender as its irrevocable attorney-in-fact for the purpose of executing any documents necessary to perfect or to continue the security interest granted in this Agreement. Lender may at any time, and without further authorization from Grantor, file a copy of this Agreement as a financing statement. Grantor will reimburse Lender for all expenses for the perfection and the continuation of the perfection of Lender's security interest in the Collateral.

Transactions Involving Collateral. Grantor will not sell, convey, transfer, assign, or otherwise dispose of the Collateral. Grantor also will not pledge, mortgage, encumber or otherwise permit the Collateral to be subject to any lien, security interest, encumbrance, claim, or charge, other than the security interest provided for in this Agreement, without the prior written consent of Lender. This includes security interests even if junior in right to the security interests granted under this Agreement.

Title. Grantor warrants and covenants that Grantor is the sole owner of the Collateral free and clear of all loans, liens, security interest, encumbrances and claims except for those disclosed to Lender in writing prior to the execution of this Agreement. Except as so disclosed to and accepted by Lender in writing, Grantor will defend and hold Lender harmless against any and all claims and demands of any person to the Collateral.

POSSESSION AND MAINTENANCE OF THE PROPERTY. The following provisions relating to the possession and maintenance of the Property are a part of this Agreement.

Duty to Maintain. Grantor shall require Buyer to maintain the Property in good condition and to perform promptly all repairs and maintenance necessary to preserve its value.

Removal of Improvements. Neither Grantor nor Buyer shall demolish or remove any improvements from the Property without the prior written consent of Lender. As a condition to the removal of any improvements, Lender may require Grantor to make arrangements satisfactory to Lender to replace such improvements with improvements of at least equal value.

Lender's Right to Enter. Lender and its agents and representatives may enter upon the Property to the same extent Grantor may do so at all reasonable times to attend to Lender's interests and to inspect the Property.

Compliance with Governmental Requirements. Grantor shall require Buyer promptly to comply with all laws, ordinances, and regulations of all governmental authorities applicable to the use or occupancy of the Property. Grantor or Buyer may contest in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Grantor has notified Lender in writing prior to doing so and so long as Lender's interests in the Property are not jeopardized. Lender may require Grantor to post adequate security or surety bond (reasonably satisfactory to Lender) to protect Lender's interests.

Nuisance, Waste. Grantor shall not cause, conduct or permit any nuisance nor commit, permit, or suffer any stripping of or waste on or to the Property or any portion of the Property. Specifically without limitation, Grantor will not remove, or grant to any other party the right to remove, any timber, minerals (including oil and gas), soil, gravel or rock products without the prior written consent of Lender.

Hazardous Substances. The terms "hazardous waste," "hazardous substance," "disposal," "release," and "threatened release," as used in this Agreement, shall have the same meanings as set forth in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 49 U.S.C. Section 6901, et seq., or other applicable state or Federal laws, rules, or regulations adopted pursuant to any of the foregoing. Grantor represents and warrants to Lender that: (a) During the period of Grantor's ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any hazardous waste or substance by any person on, under, or about the Property. (b) Grantor has no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in writing, (i) any use, generation, manufacture, storage, treatment, disposal, release, or threatened release of any hazardous waste or substance by any prior owners or occupants of the Property or (ii) any actual or threatened litigation or claims of any kind by any person relating to such matters. (c) Except as previously disclosed to and acknowledged by Lender in writing, (i) neither Grantor nor any tenant, contractor, agent or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of, or release any hazardous waste or substance on, under, or about the Property and (ii) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation those laws, regulations, and ordinances described above. Grantor authorizes Lender and its agents to enter upon the Property to make such inspections and tests as Lender may deem appropriate to determine compliance of the Property with this section of the Agreement. Any inspections or tests made by Lender shall be for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Grantor or to any other person. The representations and warranties contained herein are based on Grantor's due diligence in investigating the Property for hazardous waste. Grantor hereby (a) releases and waives any future claims against Lender for indemnity or contribution in the event Grantor becomes liable for cleanup or other costs under any such laws, and (b) agrees to indemnify and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Agreement or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Grantor's ownership or interest in the Property, whether or not the same was or should have been known to Grantor. The provisions of this section of the Agreement, including the obligation to

indemnify, shall survive the payment of the Indebtedness and the satisfaction and reconveyance of the lien of this Agreement and shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or otherwise.

Duty to Protect. Grantor shall do, or require Buyer to do, all other acts in addition to those acts set forth above that from the character and use of the Property are reasonably necessary to protect and preserve the Property.

TAXES AND LIENS. The following provisions relating to taxes and liens on the Property are a part of this Agreement.

Payment. Grantor shall pay, or require Buyer to pay, when due (and in all events prior to delinquency) all taxes, payroll taxes, special taxes, assessments, water charges and sewer service charges levied against or on account of the Property, and shall pay when due all claims for work done on or for services rendered or material furnished to the Property. Grantor shall maintain, or require Buyer to maintain, the Property free of all liens having priority over or equal to the interest of Lender under this Agreement, except for the lien of taxes and assessments not due, and except as otherwise provided in the following paragraph.

Right To Contest. Grantor or Buyer may withhold payment of any tax, assessment, or claim in connection with a good faith dispute over the obligation to pay, so long as Lender's interest in the Property is not jeopardized. If a lien arises or is filed as a result of nonpayment, Grantor or Buyer shall within fifteen (15) days after the lien arises or, if a lien is filed, within fifteen (15) days after Grantor or Buyer has notice of the filing, secure the discharge of the lien, or if requested by Lender, deposit with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender in an amount sufficient to discharge the lien plus any costs and attorneys' fees or other charges that could accrue as a result of a foreclosure or sale under the lien. In any contest, Grantor or Buyer shall defend itself and Lender and shall satisfy any adverse judgment before enforcement against the Property. Grantor or Buyer shall name Lender as an additional obligee under any surety bond furnished in the contest proceedings.

Evidence of Payment. Grantor shall upon demand furnish to Lender satisfactory evidence of payment of the taxes or assessments and shall authorize the appropriate governmental official to deliver to Lender at any time a written statement of the taxes and assessments against the Property.

Notice of Construction. Grantor or Buyer shall notify Lender at least fifteen (15) days before any work is commenced, any services are furnished, or any materials are supplied to the Property, if any mechanic's lien, materialmen's lien, or other lien could be asserted on account of the work, services, or materials. Grantor or Buyer will upon request of Lender furnish to Lender advance assurances satisfactory to Lender that Grantor or Buyer can and will pay the cost of such improvements.

PROPERTY DAMAGE INSURANCE. The following provisions relating to the Property are a part of this Agreement.

Maintenance of Insurance. Grantor, either alone or in conjunction with Buyer, shall procure and maintain policies of fire insurance with standard extended coverage endorsements on a replacement basis for the full insurable value covering all improvements on the Property in an amount sufficient to avoid application of any coinsurance clause, and with a loss payable clause in favor of Lender. Policies shall be written in form, amounts, coverages and basis reasonably acceptable to Lender and issued by a company or companies reasonably acceptable to Lender. Grantor, upon request of Lender, will deliver to Lender from time to time the policies or certificates of insurance in form satisfactory to Lender, including stipulations that coverages will not be cancelled or diminished without at least ten (10) days prior written notice to Lender. In connection with all policies covering assets in which Lender holds or is offered a security interest for the Loans, Grantor will provide Lender with such loss payable or other endorsements as Lender may require.

Application of Proceeds. Grantor shall promptly notify Lender of any loss or damage to the Property if the estimated cost of repair or replacement exceeds \$500.00. Lender may make proof of loss if Grantor or Buyer fails to do so within fifteen (15) days of the casualty. Lender may, at its election, apply the proceeds to the reduction of the Indebtedness or to the restoration and repair of the Property. If Lender elects to apply the proceeds to restoration and repair, Grantor or Buyer shall repair or replace the damaged or destroyed improvements in a manner satisfactory to Lender. Lender, upon satisfactory proof of such expenditure, shall pay or reimburse Grantor from the proceeds for the reasonable cost of repair or restoration if Grantor is not in default under this Agreement. Any proceeds which have not been disbursed within 180 days after their receipt and which Lender has not committed to the repair or restoration of the Property shall be used to prepay first accrued interest and then principal of the Indebtedness. If Lender holds any proceeds after payment in full of the Indebtedness, such proceeds shall be paid to Grantor as the interests of Grantor may appear.

Insurance Reserves. Subject to any limitations set by applicable law, Lender may require Grantor, either alone or in conjunction with buyer, to maintain with Lender reserves for payment of insurance premiums, which reserves shall be created by monthly payments of a sum estimated by Lender to be sufficient to produce, at least fifteen (15) days before due, amounts at least equal to the insurance premiums to be paid. If fifteen (15) days before payment is due the reserve funds are insufficient, Grantor shall upon demand pay any deficiency to Lender. The reserve funds shall be held by Lender as a general deposit from Grantor and shall constitute a non-interest-bearing debt from Lender to Grantor, which Lender may satisfy by payment of the insurance premiums required to be paid by Grantor as they become due. Lender does not hold the reserve funds in trust for Grantor, and Lender is not the agent of Grantor for payment of the insurance premiums to be paid by Grantor.

CONDEMNATION. The following provisions relating to condemnation proceedings are a part of this Agreement.

Application of Net Proceeds. If all or any part of the Property is condemned, Lender may at its election require that all or any portion of the net proceeds of the award be applied to the Indebtedness. The net proceeds of the award shall mean the award after payment of all reasonable costs, expenses, and attorneys' fees necessarily paid or incurred by Grantor, Buyer, Trustee, or Lender in connection with the condemnation.

Proceedings. If any proceeding in condemnation is filed, Grantor shall promptly notify Lender in writing, and Grantor shall promptly take such steps as may be necessary to defend the action and obtain the award. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of its own choice all at Grantor's expense, and Grantor will deliver or cause to be delivered, to Lender such instruments as may be requested by it from time to time to permit such participation.

EXPENDITURES BY LENDER. If not discharged or paid when due, Lender may (but shall not be obligated to) discharge or pay any amounts required to be discharged or paid by Grantor under this Agreement, including without limitation all taxes, liens, security interests, encumbrances, and other claims, at any time levied or placed on the Collateral. Lender also may (but shall not be obligated to) pay all costs for insuring, maintaining and preserving the Collateral. All such expenditures incurred or paid by Lender for such purposes will then bear interest at the rate charged under the Note from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenses shall become a part of the Indebtedness and, at Lender's option, will (a) be payable on demand, (b) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (i) the term of any applicable insurance policy or (ii) the remaining term of the Note, or (c) be treated as a balloon payment which will be due and payable at the Note's maturity. This Agreement also will secure payment of these amounts. Such right shall be in addition to all other rights and remedies to which Lender may be entitled upon the occurrence of an Event of Default.

DEFAULT. Each of the following, at the option of Lender shall constitute an Event of Default under this Agreement.

Default on Indebtedness. Failure of Grantor to make any payment when due on the Indebtedness.

Default on Other Payments. Failure of Grantor within the time required by this Agreement to make any payment for taxes or insurance, or any

other payment necessary to prevent filing of or to effect discharge of any lien.

Compliance Default. Failure to comply with any other term, obligation, covenant or condition contained in this Agreement, the Note or in any of the Related Documents. If such a failure is curable and if Grantor has not been given a notice of a breach of the same provision of this Agreement within the preceding twelve (12) months, it may be cured (and no Event of Default will have occurred) if Grantor, after receiving written notice from Lender demanding cure of such failure: (a) cures the failure within fifteen (15) days; or (b) if the cure requires more than fifteen (15) days, immediately initiates steps sufficient to cure the failure and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

Breaches. Any warranty, representation or statement made or furnished to Lender by or on behalf of Grantor under this Agreement, the Note or the Related Documents is, or at the time made or furnished was, false in any material respect.

Insolvency. The insolvency of Grantor, appointment of a receiver for any part of Grantor's property, any assignment for the benefit of creditors, the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantor, or the dissolution or termination of Grantor's existence as a going business (if Grantor is a business). Except to the extent prohibited by federal law or Washington law, the death of any Grantor (if Grantor is an individual) also shall constitute an Event of Default under this Agreement.

Foreclosure, etc. Commencement of attachment, levy, or foreclosure, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantor against any of the Collateral. However this subsection shall not apply in the event of a good faith dispute by Grantor as to the validity or reasonableness of the claim which is the basis of the foreclosure, provided that Grantor gives Lender written notice of such claim and furnishes reserves or a surety bond for the claim satisfactory to Lender.

Property Damage. Any loss, theft, damage or destruction of the Property not adequately insured as required above.

Default Under the Contract. Default by Buyer under the Contract not cured within fifteen (15) days.

Events Affecting Guarantor. Any of the preceding events occurs with respect to any Guarantor of any of the Indebtedness or such Guarantor dies or becomes incompetent. Lender, at its option, may, but shall not be required to, permit the Guarantor's estate to assume unconditionally the obligations arising under the guaranty in a manner satisfactory to Lender, and, in doing so, cure the Event of Default.

Insecurity. Lender in good faith deems itself insecure.

RIGHTS AND REMEDIES ON DEFAULT. Upon the occurrence of any Event of Default and at any time thereafter, Lender may exercise any one or more of the following rights and remedies, in addition to any other rights or remedies provided by law.

Accelerate Indebtedness. Lender shall have the right at its option without notice to Grantor to declare the entire Indebtedness immediately due and payable, including any prepayment penalty which Grantor would be required to pay.

UCC Remedies. With respect to all or any part of the Personal Property, Lender shall have all the rights and remedies of a secured party under the Washington Uniform Commercial Code.

Realty. To the extent this Agreement constitutes a security interest in realty, Lender shall have the right to foreclose by judicial foreclosure, in accordance with applicable law.

Foreclose the Contract. If the Buyer is in default under the Contract, Lender may foreclose the Contract as provided therein, either in Lender's own name or in the name of Grantor.

Forfeited Contract Payments. Payments made by Grantor or Buyer and forfeited because of Buyer's default and failure to cure under the Contract may be retained by Lender as full satisfaction and as a reasonable rental for the Property.

Apply Accounts. Lender may hold all of Grantor's Collateral consisting of accounts with Lender and Lender may apply the funds in these accounts to pay all or part of the Indebtedness.

Deficiency Judgment. If permitted by applicable law, Lender may obtain a judgment for any deficiency remaining in the Indebtedness due to Lender after application of all amounts received from the exercise of the rights provided in this section.

Other Remedies. Lender shall have all other rights and remedies provided in this Agreement or the Note or by law.

Cumulative Remedies. All of Lender's rights and remedies, whether evidenced by this Agreement or by any other writing, shall be cumulative and may be exercised singularly or concurrently. Election by Lender to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantor or Buyer under this Agreement or the Contract shall not affect Lender's right to declare a default and to exercise its remedies.

Attorneys' Fees; Expenses. If Lender institutes any suit or action to enforce any of the terms of this Agreement, Lender shall be entitled to recover such sum as the court may adjudge reasonable as attorneys' fees at trial and on any appeal. Whether or not any court action is involved, all reasonable expenses incurred by Lender that in Lender's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the Indebtedness payable on demand and shall bear interest from the date of expenditure until repaid at the Note rate. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's attorneys' fees and legal expenses whether or not there is a lawsuit, including attorneys' fees for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyors' reports, and appraisal fees, and title insurance, to the extent permitted by applicable law. Grantor also will pay any court costs, in addition to all other sums provided by law.

MISCELLANEOUS PROVISIONS. The following miscellaneous provisions are a part of this Agreement:

Amendments. This Agreement, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

Applicable Law. This Agreement has been delivered to Lender and accepted by Lender in the State of Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

Caption Headings. Caption headings in this Agreement are for convenience purposes only and are not to be used to interpret or define the provisions of this Agreement.

Waiver of Homestead Exemption. Grantor hereby releases and waives all rights and benefits of the homestead exemption laws of the State of Washington as to all Indebtedness secured by this Agreement.

Merger. There shall be no merger of the interest or estate created by this Agreement with any other interest or estate in the Property at any time held by or for the benefit of Lender in any capacity, without the written consent of Lender.

Notices. All notices required to be given under this Agreement shall be given in writing and shall be effective when actually delivered or when

BOOK 117 PAGE 350
ASSIGNMENT OF LAND SALE CONTRACT
(Continued)

deposited in the United States mail, first class, postage prepaid, addressed to the party to whom the notice is to be given at the address shown above. Any party may change its address for notices under this Agreement by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. To the extent permitted by applicable law, if there is more than one Grantor, notice to any Grantor will constitute notice to all Grantors. For notice purposes, Grantor agrees to keep Lender informed at all times of Grantor's current address(es).

Severability. If a court of competent jurisdiction finds any provision of this Agreement to be invalid or unenforceable as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other persons or circumstances. If feasible, any such offending provision shall be deemed to be modified to be within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Agreement in all other respects shall remain valid and enforceable.

Successors and Assigns. Subject to the limitations stated in this Agreement on transfer of Grantor's interest, this Agreement shall be binding upon and inure to the benefit of the parties, their successors and assigns. If ownership of the Property becomes vested in a person other than Grantor, Lender, without notice to Grantor, may deal with Grantor's successors with reference to this Agreement and the indebtedness by way of forbearance or extension without releasing Grantor from the obligations of this Agreement or liability under the indebtedness.

Time is of the Essence. Time is of the essence in the performance of this Agreement.

Waivers and Consents. Lender shall not be deemed to have waived any rights under this Agreement (or under the Related Documents) unless such waiver is in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by any party of a provision of this Agreement shall not constitute a waiver of or prejudice the party's right otherwise to demand strict compliance with that provision or any other provision. No prior waiver by Lender, nor any course of dealing between Lender and Grantor, shall constitute a waiver of any of Lender's rights or any of Grantor's obligations as to any future transactions. Whenever consent by Lender is required in this Agreement, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required.

GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS ASSIGNMENT OF LAND SALE CONTRACT AND GRANTOR AGREES TO ITS TERMS.

GRANTOR:

X Donald G. Struck
DONALD G. STRUCK

INDIVIDUAL ACKNOWLEDGMENT

STATE OF Washington

COUNTY OF Klickitat

On this day before me, the undersigned Notary Public, personally appeared **DONALD G. STRUCK**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual described in and who executed the Assignment of Land Sale Contract, and acknowledged that he or she signed the Agreement as his or her free and voluntary act and deed, for the uses and purposes therein mentioned.

Given under my hand and official seal this 4th day of January, 19 90.

By Bertha R. Hild

Residing at White Salmon

Notary Public in and for the State of Washington

My commission expires 6-18-93

CONSENT TO ASSIGNMENT OF LAND SALE CONTRACT

EDWARD AND KATHERINE D. BUSTYA ("Buyer") hereby consents to the foregoing Assignment of Land Sale Contract from DONALD G. STRUCK ("Grantor") to KICKITAT VALLEY BANK and also acknowledges receipt of a copy of the Agreement. Buyer agrees that copies of all future notices sent by Buyer pursuant to the Land Sale Contract will also be sent to KICKITAT VALLEY BANK at the following address: 390 NE TOHOMISH ST, P O BOX 279, WHITE SALMON, WA 98672. Buyer further agrees that upon written notice from KICKITAT VALLEY BANK to do so, Buyer will make all payments due thereafter under the Land Sale Contract directly to KICKITAT VALLEY BANK as provided in the Assignment of Land Sale Contract.

This Consent to Assignment of Land Sale Contract is dated _____, 19 ____.

X
EDWARD AND KATHERINE D. BUSTYA