

FILED FOR RECORD AT REQUEST OF

THIS SPACE PROVIDED FOR RECORDER'S USE

FILED FOR RECORD

BY SKAMANIA CO. TITLE

MAY 4 9 15 AM '90

GARY H. OLSON

WHEN RECORDED RETURN TO

Name SKAMANIA COUNTY TITLE COMPANY  
 Address PO BOX 277  
 City, State, Zip Stevenson, WA 98648

SK-15665

03-75-01-0-0-1400-00 (a prtn of)

03-75-01-0-0-1401-00

REAL ESTATE CONTRACT  
(LONG FORM)

LPB-45

## I. SPECIFIC TERMS

## A. PARTIES, PROPERTY AND PURCHASE PRICE:

Date: April 26, 1990

Seller:

Seller's Address:

KATHERINE ELIZABETH MARKS, widow of Theodore  
 Melvin Marks, Deceased AND  
 THEODORE MELVIN MARKS, Jr., as his separate estate  
 706 N. E. 165th Avenue  
 Portland, Oregon 97230

Purchaser:

Purchaser's Address:

DAVID L. ALLEN and DEBORAH K. ALLEN  
 husband and wife  
 PO Box 222  
 Carson, WA 98610

## Real Property Legal Description:

A Parcel of land located in the Southeast quarter of Section 1, Township 3 North  
 Range 7 1/2 East of the Willamette Meridian, Skamania County, Washington, described  
 as follows:

Commencing at the Southeast corner of said Section 1; thence Northerly along the Section  
 line to its intersection with the Southwesterly line of the Wind River Highway; thence  
 Northwesterly along the Southwesterly line of said Highway 450 feet; thence South  
 parallel with the East line of said Section 1 to a point which is 168.66 feet North  
 of the North line of the Southeast quarter of the Southeast quarter of said Section  
 1; thence West on a line parallel with and 168.66 feet North of the North line of  
 said Southeast quarter of the Southeast quarter to the West line of the East half  
 of the Southeast quarter of Section 1; thence South along said West line to the  
 South line of said Section 1; thence East along said South line to the point of  
 beginning. ALSO

All that portion of the Northwest quarter of the Northeast quarter of  
 the Southeast quarter of Section 1, Township 3 North, Range 7 1/2 East of the Willamette  
 Meridian, which lies Northeasterly of the Wind River Highway.

Title to be Conveyed:

A-FEE SIMPLE ESTATE

Form of Deed:

STATUTORY WARRANTY DEED

Title Exceptions (include leases):

1. Potential Taxes by reason of being assessed under classified use.
2. Reservations in Deed in Book 35, page 437.
3. Easement in Book 38, page 106, Deed Records.

Transaction in compliance with County Sub-division Ordinance,  
 Skamania County, WA. By

Robert Lee  
 Plann. Director  
 5/4/90

Registered ☒  
 Indexed ☒  
 Indirect ☒  
 Filed 5-14-90  
 Mailed

LPB 45  
 Page 1 of 11

Glendon J. Kimball, Skamania County Assessor  
 By *GL* Parcel # 30-25-01-1400  
 1990

Amount Which Has Been Paid to Seller: \$ 50,000.00 U.S.  
Balance Due: \$ 95,000.00 U.S.  
Purchaser to Pay to Seller: \$ 95,000.00 U.S.  
Purchaser to Pay Directly to Holders of Prior Encumbrances: \$ U.S.  
TOTAL PURCHASE PRICE: \$ 145,000.00 U.S.

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

Interest Rate: EIGHT AND ONE-HALF (8.5) percent per annum  
Installment Periods: MONTHLY  
First Installment Date: JUNE 1, 1990  
Installment Amounts: \$ 1,169.58 U.S.  
Final Payment Date: April 26, 2000 .19  
Default Rate: 8.5 percent per annum  
Late Charge:

Prepayment Provisions:

BUYER MAY NOT PREPAY THE BALANCE DUE OR ANY PORTION THEREOF IN ADDITION TO THE REGULAR PAYMENTS, PRIOR TO APRIL 26, 1997.

Prepayment Premium:

THEODORE MARKS JR. and KATHERINE ELIZABETH MARKS

Address to which Installment Amounts are to be Sent:

706 N. E. 165th Avenue  
Portland, Oregon 97230

C. TERMS OF PRIOR ENCUMBRANCES

Prior Encumbrance:

To be Paid By: ☐ Seller ☐ Purchaser  
Current Holder:  
Original Principal Amount: \$ U.S.  
Interest Rate: percent per annum U.S.  
Current Principal Balance: \$ U.S.  
Payment Dates:  
Amount of Each Payment: \$ U.S.  
Secured By:

Dated 19  
Recorded on 19  
Recording No.

Prior Encumbrance:

To be Paid By: ☐ Seller ☐ Purchaser  
Current Holder:  
Original Principal Amount: \$ U.S.  
Interest Rate: percent per annum U.S.  
Current Principal Balance: \$ U.S.  
Payment Dates:  
Amount of Each Payment: \$ U.S.  
Secured By:

Dated 19  
Recorded on 19  
Recording No.

Prior Encumbrance:

To be Paid By: ☐ Seller ☐ Purchaser  
Current Holder:  
Original Principal Amount: \$ U.S.  
Interest Rate: percent per annum U.S.  
Current Principal Balance: \$ U.S.  
Payment Dates:  
Amount of Each Payment: \$ U.S.  
Secured By:

Dated 19  
Recorded on 19  
Recording No.

## D. MISCELLANEOUS:

Portion of Purchase Price  
Allocated to Real Property:

\$ 145,000.00 U.S.

Portion of Purchase Price  
Allocated to Personal Property:

\$ U.S.

Is the Property to be used principally for agricultural or farming purposes? ☐ Yes ☐ No.

Miscellaneous:  
(Identify any Exhibits attached)

SELLERS HEREBY GRANT TO BUYERS, A RIGHT OF FIRST REFUSAL ON SELLERS REMAINING PROPERTY, BEING THAT PORTION OF TAX ACCOUNT 03-75-01-0-0-1400, NOT DESCRIBED ABOVE.

THE SELLER AND THE PURCHASER HEREBY AGREE TO THE TERMS HEREINABOVE SET FORTH AND THE COVENANTS AND CONDITIONS CONTAINED IN THE ATTACHED GENERAL TERMS, ALL OF WHICH ARE INCORPORATED BY THIS REFERENCE. IN THE EVENT OF ANY CONFLICT OR INCONSISTENCY BETWEEN THE SPECIFIC TERMS (INCLUDING ANY EXHIBITS ATTACHED) AND THE GENERAL TERMS, THE FORMER SHALL CONTROL.

IN WITNESS WHEREOF, the seller and the Purchaser have executed this agreement as of the date first above stated.

SELLER

PURCHASER

*Theodore Marks Jr.*  
THEODORE MARKS JR.  
*Katherine Elizabeth Marks*  
KATHERINE ELIZABETH MARKS

*David Allen*  
DAVID ALLEN  
*Deborah K. Allen*  
DEBORAH ALLEN

STATE OF WASHINGTON

STATE OF WASHINGTON

COUNTY OF SKAMANIA

COUNTY OF

On this day personally appeared before me  
DAVID ALLEN, DEBORAH ALLEN  
THEODORE MARKS JR., KATHERINE  
KATHERINE ELIZABETH MARKS  
to me known to be the individual described  
in and who executed the within and forego-  
ing instrument, and acknowledged that  
they  
signed the same as their  
free and voluntary act and deed, for the uses  
and purposes therein mentioned.

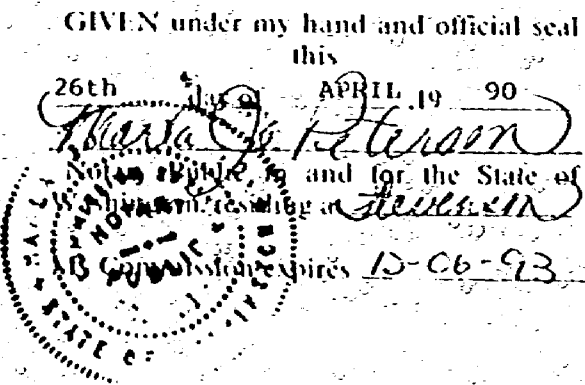
On this day of 19  
before me, the undersigned, a Notary Public in and for the State of  
Washington, duly commissioned and sworn, personally  
appeared

and  
to me known to be the and  
respectively, of  
the that executed the foregoing instrument, and  
acknowledged the said instrument to be the free and voluntary act  
and deed of said for the uses and  
purposes therein mentioned, and on oath stated that  
authorized to execute the  
said instrument.

Witness my hand and official seal hereto affixed the day and year  
first above written.

Notary Public in and for the State of Washington, residing at

My Commission expires on



1. **AGREEMENT OF SALE.** The Seller agrees to sell and the Purchaser agrees to purchase all that certain Real Property and Personal Property (collectively the "Property") described in this contract, 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 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, expenses and late charges for which the Purchaser is then liable hereunder, secondly against interest, and thirdly against the principal then due to the Seller. Interest shall 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 no Prior Encumbrance provides that it will become in default or accelerated or the interest rate thereon adjusted above the interest rate stated therefor in the Specific Terms hereof because of the execution, delivery and recordation of this contract. 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. If any prepayment to the holder of any Prior Encumbrance also requires a prepayment premium, the Purchaser shall pay the same if it is imposed as a result of the Purchaser's prepayment or default. If any Prior Encumbrance does not permit prepayment and the holder thereof does not consent thereto, and if the Purchaser desires to prepay that portion of the Purchase Price which is not encompassed by the principal balance then due under said Prior Encumbrance, the Purchaser may prepay to the Seller the balance of that portion of the Purchase Price which is not then due to the holder of said Prior Encumbrance; provided, however, said partial prepayment need not be accepted by the Seller unless the Purchaser expressly assumes and agrees in writing to pay and perform the then remaining obligations secured by said Prior Encumbrance. If this contract is so partially prepaid, the Purchase Price Prepayment Premium, if otherwise calculated on the entire purchase price, shall be reduced to correspond to the ratio of the amount being prepaid to the Seller to the total amount of the then outstanding principal balance of the Purchase Price. The Seller shall not be required to accept any prepayments which do not conform to the requirements of this paragraph unless and to the extent prepayment is otherwise provided for in the Specific Terms of this contract. Except when otherwise stated herein, any Prepayment Premium provided for in this contract shall apply to any sums received by the Seller in advance of their original due date, whether voluntarily made by the Purchaser or as a result of the exercise of any remedy by the Seller; provided, however, the Prepayment Premium shall not be required for any voluntary prepayment made within thirty (30) days of the Final Payment Date if preceded by not less than ten (10) days written notice.

5. **RETENTION OF TITLE AND SECURITY.** Except as otherwise provided herein, the Seller's title to the Property and any substitutions thereof shall remain in the Seller until the Purchaser receives delivery of the Seller's deed. In addition thereto, the Purchaser hereby grants to the Seller a security interest in all condemnation awards and insurance proceeds relating to the Property and all of the rights, titles and interests in the Personal Property conveyed by this contract and subsequently acquired by Purchaser in substitution thereof as security for the performance of the Purchaser's obligations herein, and the Purchaser hereby assigns to the Seller all rents and security deposits derived from or relating to the Property and, except for the initial partial month's and last month's rent, covenants not to collect any rents which are attributable to more than one month of the unexpired lease term. The Purchaser agrees to deliver to the Seller such further assurances and UCC financing statements and statements of continuation which the Seller requests to further evidence, perfect or confirm its rights under this contract. The Purchaser agrees with the Seller that it shall comply with the terms of all leases of the Property, and shall, upon written request, promptly notify the Seller of any alleged defaults therein by the Purchaser or any tenant. After all sums evidenced by this contract due to the Seller have been paid, the Seller shall deliver its fulfillment deed and bill of sale to the Purchaser in the form and subject to the exceptions herein agreed to. In the event any escrow account is established for this contract, said deed and bill of sale shall be executed and placed with the escrow agent promptly following the opening of said account with instructions to deliver them to the Purchaser when entitled thereto.

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 by the Purchaser or any successor of the Purchaser, 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 commingled 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 AND INSURANCE.** 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.

The Purchaser shall, at its own cost and expense, keep the improvements on the Property insured against loss or damage by fire, windstorm, and all other casualties covered by "all risk" endorsements available in the State of Washington and with such additional coverages or endorsements as the Seller may reasonably require from time to time. Said insurance shall be in an amount not less than the greater of (a) the amount of coverage necessary to avoid the insured being treated as a co-insurer, or (b) one hundred twenty percent (120%) of the then unpaid principal balance of the Purchase Price for the Property, or (c) such higher amount as may be required by the terms of any Prior Encumbrance, and shall be placed with an insurance company authorized to do business in the State of Washington. All insurance policies shall expressly include the Seller as a named insured, shall contain a waiver of subrogation clause (to the extent reasonably obtainable), and shall include provisions to the effect that they cannot be materially modified or cancelled prior to Seller receiving not less than twenty (20) days' advance written notice, and accurate and complete copies thereof shall be deposited with the Seller upon written request.

In the event of loss or damage to the Property which is required to be insured hereunder, and except as otherwise required by any Prior Encumbrance and the then holder thereof, the insurance proceeds shall, at the option of the Purchaser, be used to repair, rebuild, or replace all improvements and personal property which may have been destroyed or damaged to the extent necessary to restore and replace them to substantially the same condition which existed immediately prior to the casualty, subject to such modifications as may then be required by law or to which the Seller agrees in writing. Immediately upon receipt, all insurance proceeds, together with any other sums required to complete the repairs and restorations, shall be placed in a construction disbursement account with an escrow agent or other person jointly designated by the Seller and the Purchaser and shall be disbursed periodically in amounts corresponding to the percentage of completion of repairs; provided, however, in the event this contract is forfeited, any portion of such proceeds remaining after the payment of properly incurred repair and replacement costs due as of the date of such forfeiture shall be immediately paid to the Seller. No construction may be commenced until all sums required to pay the cost thereof have been deposited in the disbursement account. The expenses of said disbursement account and in obtaining percentage completion certificates shall be paid by the Purchaser, and the Purchaser shall be responsible for depositing in the disbursement account the amounts necessary to pay all costs of repairs, reconstruction and replacements which are not covered by the insurance proceeds. In the event the Purchaser desires to construct improvements which are materially different from those so damaged or destroyed, it shall first obtain the Seller's written consent. All repairs and replacements shall be commenced within sixty (60) days following the date the Purchaser elects to reconstruct and shall be continuously pursued with due diligence. Subject to the terms of any Prior Encumbrances, any casualty insurance proceeds which are not used to pay for repairs or replacements permitted by the terms of this paragraph shall be paid to the Seller and applied against the principal balance last due hereunder, and the Seller shall accept the same notwithstanding any prepayment restriction in this contract. The Prepayment Premium shall not be added to any payments required by this paragraph.

If (i) a Prior Encumbrance and the then holder thereof does not permit the use of casualty insurance proceeds for repairs, or (ii) the Purchaser does not elect to repair the damage, or (iii) the Seller's consent to materially different improvements is not waived or given, or (iv) the Purchaser does not deposit into the disbursement account all sums in excess of available insurance proceeds required for reconstruction by the date construction is required to commence, or (v) construction is not commenced when required or not continuously pursued (subject to delays beyond the reasonable control of the Purchaser), the Seller may require that all casualty insurance proceeds be immediately paid to the Seller (without addition of the Prepayment Premium) or to the holder of a Prior Encumbrance having a valid claim thereto which is prior to the Seller's. The Purchaser shall make the elections provided for in this paragraph within sixty (60) days following the date of casualty, and the Seller shall respond in writing to a written request to construct materially different improvements within twenty (20) days after said request. Any failure of the Purchaser to timely make any such election shall enable the Seller to apply the insurance proceeds against the principal last due under this contract, and any failure of the Seller to timely respond to any such request shall be deemed an approval thereof.

Damage to or destruction of the Property or any portion thereof shall not constitute a failure of consideration or provide a basis for the rescission of this contract, nor shall such circumstances relieve the Purchaser of its obligation to pay the remaining Installment Amounts when due. In the event of any failure of the Purchaser to obtain or timely pay any premiums for any insurance required by this paragraph, and if such failure is not rectified within any required notice period for remedial advances under this contract, the Seller may require the Purchaser to deposit with each Installment Amount an amount reasonably estimated by the Seller to be necessary to discharge the next ensuing premiums for said policies, said estimates to be adjusted by the Seller upon receipt of the premium invoices to reflect the actual amount of such liabilities. The payments so made 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 thereon, if any, being added to the sums so held; provided, however, this account may be commingled with any tax reserve account under this contract.

**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. No loss, damage or destruction of all or part of the Property shall constitute a failure of consideration or a basis for the rescission of this contract or relieve the Purchaser from its obligation to observe and perform all of the terms, covenants and conditions hereof. 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, without the prior written consent of the Seller, remove any Personal Property from the Real Property, and will keep and maintain the same in good order, repair and condition; provided, however, the Purchaser shall have the right to promptly replace Personal Property with items of comparable worth and utility. The Purchaser shall replace any item of Personal Property or any substitution thereof which may become lost, broken or beyond repair, and such after-acquired item shall be subject to all of the provisions hereof. No replacements or substitutions permitted or required in this paragraph may be subject to a security interest or conditional sales contract which would have priority over the Seller's security interest. The Seller shall have the right at all reasonable times and hours, to inspect the Property to ascertain whether the Purchaser is complying with all of the terms, covenants and conditions of this contract.

**13. ALTERATIONS AND LIENS.** Except as otherwise permitted in this contract for construction following an insured casualty or condemnation, or except for any maintenance or repairs required by this contract, the Purchaser shall not, without the prior written consent of the Seller, make or permit any alterations, additions, or improvements to or of the Property or to any portion thereof nor permit any demolition or removal of any such improvements. The Seller may not unreasonably withhold its consent if the action proposed will not materially affect the value of the Property or violate any applicable laws or ordinances or the terms of this contract or of any Prior Encumbrances. 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 of 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; all easements, reservations, restrictions, covenants and conditions of record affecting or pertaining to the Property; and any condominium, planned unit development, or cooperative declarations, articles, bylaws, rules, regulations and 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.

**15. AGRICULTURAL PROVISIONS.** If, in the Specific Terms of this contract, the parties have indicated that the Property is to be used principally for agricultural or farming purposes, the Purchaser shall continuously pursue good and prudent farming operations upon the Property in accordance with the practices of good husbandry, soil conservation, tree and plant pruning, harvesting, and the customary manner in which agricultural property is properly and productively farmed and managed in the county in which the Property is situated. The Purchaser will take such precautions as are necessary to prevent undue depletion of the soil from erosion by wind or water and shall use reasonable efforts to keep the Property free from plants, insects and animals which may have a deleterious effect upon the Property, crops, or livestock. The Purchaser will keep the Property properly irrigated and properly employ such herbicides, pesticides and fertilizers as may be reasonably necessary to comply with the provision of this paragraph and all applicable legal requirements. The Purchaser shall not remove or destroy any existing fruit trees or plants, improvements, irrigation fixtures or equipment, fences, storage houses or sheds, barns, silos, or, except as otherwise permitted in this contract for Personal Property, any tools, equipment or machinery which may be employed in connection with the agricultural use of the Property, without the prior written consent of the Seller, and the Purchaser shall make such improvements to the Property as are reasonably necessary to properly irrigate, drain and farm the Property in accordance with the provisions hereof.

**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 the 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 or series of transfers of any shares or partnership interests 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 (i) 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 defaults 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 and any sums which have been advanced by Seller as of said date pursuant to the provisions of this contract, 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 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. 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 Property by, through or under the Purchaser who were properly given the Notice of Intent to Forfeit and the Declaration of Forfeiture. If 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.

(d) **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.

(e) **Entry Upon Agricultural Property.** In the event the parties hereto have indicated in the Specific Terms of this contract that the Property is to be used principally for agricultural or farming purposes, the Seller shall have the right, following three (3) days' prior written notice to the Purchaser, to enter upon the Real Property from time to time to perform any one or more of the functions required of but not performed by the Purchaser in the agricultural provisions of this contract and to feed and care for any livestock and harvest, transport, store and sell any of the crops which may be grown on the Property in such manner as the Seller shall elect, and for the purposes of this paragraph, the Purchaser grants to the Seller a security interest in all of its seeds and crops, and the products and proceeds thereof, which may now or at any time hereafter be located upon or in the Property or be harvested therefrom. The exercise of this right shall not affect the liabilities of the Purchaser; provided, however, should the Seller receive any sums as a result of its actions hereunder it shall apply the same to discharge the costs and expenses, including attorneys' fees, reasonably incurred in taking said action, together with interest thereon at the Default Rate from the date of expenditure to and including the date said proceeds are received, and the balance of such proceeds shall be applied against the Purchase Price principal last due and owing hereunder, including any Prepayment Premium applicable thereto. In the absence of receiving any such proceeds, or if and to the extent the same are insufficient to reimburse the Seller for such amounts and interest, the Purchaser shall reimburse the Seller for such amounts and interest on demand, with said interest being calculated to and including the date of payment.

(f) **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.

(g) **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 cost 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, and

(h) **Property Rental.** If this contract is forfeited 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 Amounts 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 defaults 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 giving the party required to make such payments 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 attorney's 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 any other existing or 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, arbitration and court costs, collection agency charges, notice expenses, title search expenses, and reasonable attorneys' fees (with or without arbitration or litigation), and the failure of the defaulting party to promptly pay the same shall in itself constitute a further and additional default. In the event either party hereto institutes any action (including arbitration) 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' fees, including such costs and fees that are incurred on appeal. 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.** Subject to the requirements of any applicable statute, any notices required or permitted by law or under this contract shall be in writing and shall be personally delivered or 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 when personally delivered or, if mailed, on the date of the deposit thereof in the U.S. mail and 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 boldface 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 to 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 unless the court's ruling includes a determination that the principal purpose and intent of this contract are thereby defeated. 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 amounts 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 party is intended to be benefitted by this contract. Any married person executing this contract hereby pledges his or her separate property and such person's and his or her spouse's marital communities in satisfaction hereof.

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, supercedes 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 Seller and the Purchaser subsequent to the date hereof.