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BOOK 118 PAGE 99

FILED FOR RECORD
SKAMANIA CO. WASH
BY *Robert Leick*

MAR 8 3 39 PM '90

P. Lowry
GARY H. OLSON

REAL ESTATE CONTRACT

I. SPECIFIC TERMS

A. PARTIES, PROPERTY AND PURCHASE PRICE

Date: January 10th, 1990

Sellers: WILLIAM J. BIRKENFELD and MARY LEE BIRKENFELD, husband & wife

Sellers' Address: Soda Springs Rd.
Carson, Washington 98610

Purchasers: ~~SUELE YOSHIDA and TOYOE YOSHIDA,~~
~~as tenants in common~~ a married person
as her separate estate

Purchasers' Address: 1526 S.E. Powell Bl.
Portland, OR 97242

Real property Legal Description: A parcel of land located in
Section 27, Township 3 North,
Range 8 E.W.M., Skamania Coun-
ty, Washington, described as:

Beginning at the northwest cor-
ner of the William M. Murphy D.
L.C. No. 37; running thence
east 447.03 feet; thence south
14 deg. 15 min. west 193.50
feet; thence north 82 deg. 43
min. east 107.0 feet; thence
south 28 deg. 31 min. west
260.0 feet; thence south 19
deg. 17 min. east 471.0 feet;
thence south 84 deg. 28 min.
west 89.5 feet; thence north
24 deg. west 142.0 feet; then-
ce north 14 deg. west 60.0
feet; thence north 23 deg.
west 93.0 feet; thence north
26 deg. west 100.0 feet; then-
ce north 44 deg. west 200.0
feet; thence north 47 deg.
west 116.0 feet; thence north
43 deg. west 111.4 feet; then-
ce west 71.31 feet; thence
north 22 deg. east 201.50 feet
to the point of beginning.

Title to be Conveyed: Warranty Deed upon fulfillment
of real estate contract.

Title Exceptions:

Registered 10
Indexed 10
Filed 10
Mailed 3990

13395

REAL ESTATE EXCISE TAX

MAR 8 1990

PAID 740.32

W. J. DePue
SKAMANIA COUNTY TREASURER

J. G.

Downpayment to be Paid Seller
on Execution of Contract: \$ 20,000.00

Balance Due on Contract \$ 35,000.00

TOTAL PURCHASE PRICE: \$ 55,000.00

B. TERMS OF DEFERRED AMOUNT TO BE PAID TO SELLERS

Interest Rate: Twelve (12%) percent per annum on unpaid principal balance, accumulating from date of closing.

Installment Periods: Monthly installments until both principal and interest called for herein is paid in full.

Installment Amounts: \$1,000.00

First Installment Date: January 10th, 1990.

Default Rate: Twelve Percent (12%) Per Annum

Address to Which Installment Amounts are to be Sent: JOHN L. LALONDE, Attorney at Law
P.O. Box 938, Vancouver, WA 98666
or to such other place as directed by Sellers in writing.

Closing Costs: To be paid by Purchasers

THE SELLERS AND THE PURCHASERS 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 AND THE GENERAL TERMS, THE FORMER SHALL CONTROL.

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

William J. Birkenfeld
WILLIAM J. BIRKENFELD - Seller

Mary Lee Birkenfeld
MARY LEE BIRKENFELD - Seller

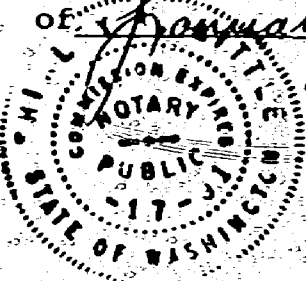
T. Y.
~~XXXXXXXXXXXX~~ - ~~XXXXXXXXXX~~

Toyoe Yoshida
TOYOE YOSHIDA - Purchaser

STATE OF WASHINGTON)
) ss.
 County of Skamania)

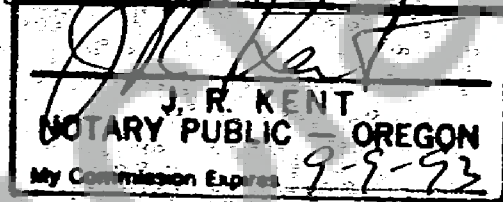
On this day personally appeared before me WILLIAM J. BIRKENFELD and MARY LEE BIRKENFELD, husband and wife, to me known to be the individuals described as the "Sellers" in and who executed the within and foregoing instrument, and acknowledged that they signed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 16th day of January, 1990.



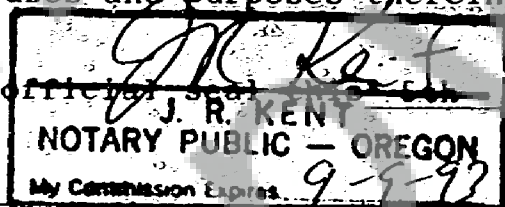
Shirley A. Brown
 Notary Public in and for the State of
 Washington residing at Stevenson
 My commission expires

STATE OF OREGON)
) ss.
 County of Multnomah)



On this day personally appeared before me ~~SIMONE YOSHIDA~~
~~TOYOE~~ YOSHIDA, to me known to be the individuals described in
 as Purchasers and who executed the within and foregoing instru-
 ment, and acknowledged that ~~they~~ ^{she} signed the same as ~~their~~ ^{her} free
 and voluntary act and deed for the uses and purposes therein men-
 tioned.

Given under my hand and official seal this 16th day
 of January, 1990.



Notary Public in and for the State of
 Oregon, residing at
 My commission expires

II. GENERAL TERMS

1. AGREEMENT OF SALE. The Sellers agree to sell and the Purchasers agree to purchase all that certain real property, above described, hereinafter referred to as the "Property", subject to the Title Exceptions listed in the Specific Terms hereof, and for the considerations and subject to the terms, covenants and conditions herein contained.

2. PURCHASE PRICE. The Purchasers agree to pay the Purchase Price to the order of the Sellers in the manner set forth in the Specific Terms. The deferred portion of the Purchase Price which the Purchasers are to pay to the Sellers shall be timely paid in the Installment Amounts so specified, commencing on the First Installment Date and continuing on the same day of each Installment Period thereafter until both principal and interest due under this contract has been paid in full. Each payment of the Installment Amounts shall be first applied against interest to date and the balance shall be applied against the principal then due the Sellers. Interest shall begin to accumulate on Date of Closing, and continue to accrue until the Sellers have received all of the principal.

J. y.

3. RETENTION OF TITLE AND SECURITY. Except as otherwise provided herein, the Sellers' title to the Property shall remain in the Sellers until the Purchasers receive delivery of the Sellers' deed.

4. DATE OF CLOSING/POSSESSION. This transaction is to be closed on or before JAN 10, 1990, and Purchasers may enter upon and take possession of the Property on JAN 10, 1990.

5. TAXES, ASSESSMENTS AND UTILITIES. The real property taxes, on date of closing, shall be prorated between the parties and paid accordingly. In addition to the payments hereinabove provided for, the Purchasers shall pay before delinquency all taxes and assessments becoming a lien against the Property after the date of this contract, including all assessments hereafter levied or attached to said property by any city, county, or state government. Purchasers may, in good faith, contest any such taxes or assessments so long as no forfeiture or sale of the property is threatened as the result of such contest. Purchasers further agree to pay when due any utility charges which may become liens superior to Sellers' interest under this contract.

6. INDEMNIFICATION AND INSURANCE. The Purchasers shall and hereby covenant and agree to indemnify and hold the Sellers harmless for any losses, damages, costs, claims and liabilities, including attorney's fees, caused by any negligent, reckless or intentional act of or negligent or reckless failure to act by the Purchasers, about or with respect to the Property, and for any breach of this contract by the Purchasers, and this covenant of indemnification shall survive the delivery of the Sellers' final deed to the Purchasers.

The Purchasers shall, at their own cost and expense, keep the improvements upon 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 coverage or endorsements as the Sellers may reasonably require from time to time. All insurance policies shall expressly include the Sellers as 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 Sellers receiving not less than twenty (20) days' advance written notice, and accurate and complete copies thereof shall be deposited with the Sellers upon their written request.

In the event of loss or damage to the Property which is required to be insured hereunder, the insurance proceeds shall, at the option of the Purchasers, 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 Sellers agree in writing. In the event Purchasers desire to construct improvements which are materially different from those so damaged or destroyed, they shall first obtain the Sellers' written consent. All repairs and replacements shall be commenced within sixty (60) days following the date the Purchasers elect to reconstruct and shall be continuously pursued with due diligence.

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 Sellers and applied against the principal balance last due hereunder.

If (i) the Purchasers do not elect to repair the damage, or (ii) the Sellers' consent to materially different improvements is not waived or given, or (iii) construction is not commenced when required or not continuously pursued (subject to delays beyond the reasonable control of the Purchasers), the Sellers' may require that all casualty insurance proceeds be immediately paid to the Sellers. The Purchasers shall make the elections provided for in this paragraph within sixty (60) days following the date of the casualty, and the Sellers shall respond in writing to a written request to construct materially different improvements within twenty (20) days after said request. Any failure of the Purchasers to timely make any such election shall enable the Sellers to apply the insurance proceeds against the principal last due under this contract, and any failure of the Sellers' 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 Purchasers of their obligation to pay the remaining Installment Amounts when due.

7. **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 Purchasers hereby accept the Property in the condition existing on the date of this contract and confirm that neither the Sellers nor any agent or representative of the Sellers 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.

8. **RISK OF LOSS.** The Purchasers 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 Purchasers from their 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, or their agents, 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; 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.

9. **MAINTENANCE AND INSPECTION.** The Purchasers 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. The Purchasers shall not permit any hazardous or toxic substance

J. G.

material or waste to be located upon or generated, stored, transported to or from, disposed of on the Property or permit the Property to become contaminated with any substance in violation of any applicable federal, state or local law. The Sellers shall have the right, at all reasonable times and hours, to inspect the Property to ascertain whether the Purchasers are complying with all of the terms, covenants and conditions of this contract.

10. 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 Purchasers shall not, without the prior written consent of the Sellers, 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 Sellers may not unreasonably withhold their 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. The Purchasers shall not cause, authorize or permit any mechanics' or materialmen's liens to be placed upon the Property. The Purchasers shall indemnify and defend the Sellers against all liens levied against the Property or any part thereof caused by or through the Purchasers. The Purchasers 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 Purchasers shall encumber any interest of the Sellers in the Property. In the event the Purchasers shall alter, repair or improve the real property, or erect or construct any new or additional buildings or improvements on the Property or any part thereof (whether acting with or without Sellers' consent), all such alterations, repairs, improvements, replacements and additions, including any new buildings and improvements, shall immediately be and become the property of the Sellers and subject to all of the terms, covenants and conditions of this contract.

11. COMPLIANCE WITH LAWS AND RESTRICTIONS. The Purchasers shall faithfully observe, perform and comply with all laws, ordinances, rules and regulations of every governmental authority affecting the Property and the use thereof and activities thereon; all easements, reservations, restrictions, covenants and conditions of record affecting or pertaining to the Property and the use thereof and activities thereon. The Purchasers shall not use or permit any person to use the Property for or in connection with any unlawful purpose or in any manner which causes a nuisance, or in violation of any federal, state or local statute or ordinance governing the use or improvement of the Property or any hazardous or toxic materials, products or waste.

12. 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 Sellers or the Purchasers, or both, may appear and defend or prosecute in any such proceeding. All compensation or awards received from the condemning authority by either the Sellers or the Purchasers shall 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 Purchasers

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, next to any other sums then due to the Sellers (including accrued and unpaid interest and reimburseable advances and expenses), and the surplus, if any, shall be paid to the Purchasers. 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 Sellers 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. 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.

13. TRANSFER OF PURCHASERS' INTEREST. If the Purchasers' title to the Property, or any portion thereof, is conveyed to any other person or persons, without the Sellers' written consent, the Sellers may, at their 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 Sellers may elect one of said options by written notice to the Purchasers 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. For the purposes of this contract, a "conveyance" of the "Purchasers' 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, or lease with option to purchase for a term in excess of three (3) years (including extension options). A "conveyance" of the "Purchasers' 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 Purchasers' spouse or children; (iii) a transfer by devise, descent, or operation of law resulting from the death of any person comprising the Purchasers; or (iv) 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 Purchasers retain or acquire 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 Sellers in writing.

14. PURCHASERS' DEFAULT. The Purchasers shall be in default under this contract if they (a) fail to observe or perform any term, covenant or condition herein set forth or (b) fail or neglect to make any payment of principal or interest or any other amount required to be discharged by the Purchasers precisely when obligated to do so, or (c) become or is declared insolvent or makes an assignment for the benefits of creditors, or files any debtor's petition or any petition is filed against them under any bankruptcy, wage earner's, reorganization or similar act, or (d) permit the property or any part thereof or their interest therein to be attached or in any manner restrained or impounded by process of any court, or (e) abandon the property for more than thirty (30) consecutive days (unless the property

J. Y.

is otherwise occupied), or (f) convey the property or a portion thereof without any prior written consent required herein of the Sellers.

15. **SELLERS' REMEDIES.** In the event the Purchasers default under this contract the Sellers may, at their election, take the following courses of action:

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

(b) **Acceleration.** Upon giving the Purchasers not less than fifteen (15) days' written notice of their 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 Sellers herein required for a conveyance of the Purchaser's title to the Property, or if the Purchasers commit waste on the Property, the Sellers may declare the entire unpaid balance of the Purchase Price and all interest then due thereon to be immediately due and payable and institute suit to collect such amounts, together with any sums advanced by the Sellers 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 Sellers may cancel and render void all right, title and interest of the Purchasers and their 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 Sellers record a Declaration of Forfeiture pursuant to RCW 61.30.040-070. The entire balance of such sums due and to become due under this contract shall be paid from the proceeds of any sale ordered by the court pursuant to RCW 61.30.120, including interest at the Default Rate to and including the sale date and all expenses incurred by the Sellers as a result of such sale. Upon the forfeiture of this contract the Sellers may retain all payments made hereunder by the Purchasers and may take possession of the Property ten (10) days following the date this contract is forfeited and sum-

J. G.

marily eject the Purchasers and any person or persons having possession of the said Property by, through or under the Purchasers who were properly given the Notice of Intent to Forfeit and the Declaration of Forfeiture. In the event the Purchasers or any person or persons claiming by, through or under the Purchasers 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 Purchasers, or such person or persons, shall be deemed tenants at will of the Sellers and the Sellers shall be entitled to institute an action for summary possession of the property, and may recover from the Purchasers 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 Sellers' reasonable attorney's fees. To the extent permitted by applicable statute, the Sellers shall have the right to obtain a deficiency against the Purchasers following the forfeiture of this contract for damages caused by waste to the Property.

(d) Judicial Foreclosure. To the extent permitted by any applicable statute, the Sellers may judicially foreclose this contract as a mortgage and in connection therewith, may accelerate all of the debt due under this contract if the defaults upon which such action is based are not cured within fifteen (15) days following the Sellers' written notice to the Purchasers which specifies such defaults and the acts required to cure the same (within which time any monetary default may be cured without regard to the acceleration); provided, however, such cure period shall be extended for up to thirty (30) additional days to the extent reasonably necessary to complete the cure of a nonmonetary default if the Purchasers commence such cure within fifteen (15) days following the Sellers' notice and pursues it with due diligence. The Sellers may, but shall not be required, to waive any right to a deficiency judgment in their foreclosure complaint. The Purchasers at any foreclosure sale may (but shall not be obligated to), during any redemption period, make such repairs and alterations to the Property as may be reasonably necessary for the proper operation, use, preservation and protection thereof; pay any taxes and assessments due during such period; insure the Property against loss by casualty; and pay utility bills, liens not extinguished by the foreclosure and other amounts relating to the Property to the extent due during such redemption period, and all of such expenses and payments, together with interest thereon from the date paid to reimbursement at the rate provided by statute for any other redemption amounts, shall be included in the amount required to be paid by any person to redeem the Property.

(e) Specific Performance. The Sellers may institute suit to specifically enforce any of the Purchasers' covenants hereunder, and the same may include redress by mandatory or prohibitive injunction;

J. G.

(f) Receivership. The parties hereto recognize and agree that in the event of default by the Purchasers 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 Sellers and to the Property. Therefore, the Purchasers hereby expressly agree that in the event of any default under this contract which is not cured, the Sellers 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 the Property, to make such alterations, repairs and improvements to the Property as the receiver may deem advisable, and to receive all 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, taxes, assessments, insurance premiums, utility bills and costs of 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 Purchasers without interest. Regardless of the application thereof, no sums requested by or paid to the receiver shall be deemed a partial cure for the purpose of requiring a notice of insufficient cure to be given to any person under RCW 61.30.090(3); and

(g) Property Rental. If this contract is forfeited or foreclosed as herein provided, or in any other manner permitted by law, or by mutual agreement of the Purchasers and the Sellers, and the Purchasers shall thereafter remain in possession of the property beyond any period otherwise permitted by law, the Purchasers agrees that they will occupy the property as a tenant at will, and the Purchasers shall be obligated to pay, and hereby promise to pay, during the period of such tenancy at will, a fair market rental, in the amount then agreed to by the parties or, in the absence of such agreement or until such agreement is reached, an amount equal to two (2) times the Installment Amount as and when provided for in this contract; and the Sellers 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.

16. PURCHASERS' REMEDIES. In the event the Sellers default under this contract and such default continues for fifteen (15) days after the Purchasers give the Sellers written no-

J. Y.

tice specifying the nature thereof and the acts required to cure the same, the Purchasers shall have the right to specifically enforce this contract, institute suit for their damages caused by such default, or pursue any other remedy which may be available to the Purchasers at law or in equity.

17. REMEDIAL ADVANCE. If either party to this contract shall fail to timely pay and discharge any payments or sums for which they have agreed to be responsible for 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, 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 payment not less than fifteen (15) days' prior written notice (except in any instance in which the Purchasers fail 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 their 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.

18. CUMULATIVE REMEDIES; WAIVERS. The remedies stated herein are cumulative and not mutually exclusive and the Sellers or the Purchasers 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 Purchasers' transfer of the Property, the Sellers shall not have the right to accelerate the remaining balance of the purchase price in the event the Sellers elect to forfeit the Purchasers' 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 Purchasers hereby expressly waives any legal or equitable rights that the Purchasers may have with respect to marshaling of assets. The Sellers shall not be required to tender their deed 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.

19. COSTS AND ATTORNEY'S 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

J. G.

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, court costs, collection agency charges, notice expenses, title search expenses, and reasonable attorney's fees (with or without litigation), and the failure of the defaulting party to promptly pay the same shall constitute a further and additional default. In the event either party hereto institutes, defends, or is involved with any action to enforce the provisions of this contract the prevailing party in such action shall be entitled to reimbursement by the losing party for its court costs and reasonable attorney's costs and fees, including such costs and fees that are incurred in connection with any forfeiture, foreclosure, public sale, action for specific performance, injunction, damages, waste, deficiency judgment, unlawful detainer, or to contest the reasonableness of any person's costs or attorney's fees; and in any mediation, arbitration, bankruptcy, probate, appeal, or other proceeding. All reimbursements required by this paragraph shall be due and payable on demand, may be offset against any sum owed to the party so liable in order of maturity, and shall bear interest at the Default Rate from the date of demand to and including the date of collection or the due date of any sums against which the same is offset.

20. 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 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 Sellers 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.

21. 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.

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

23. 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 "Purchasers" and "Sellers" refer to either the singular or the plural, as the case may be.

24. DEFINITIONS. As used herein the term "Property" means all of the estate, right, title and interest currently held

and hereafter acquired by the Sellers in and to the real property described herein and the rights, easements, privileges and appurtenances thereunto belonging or appertaining or held and enjoyed therewith, together with all timber thereon and any repairs, improvements, replacements and additions thereto whether made, erected or constructed by the Sellers or the Purchasers prior or subsequent to the date hereof. All capitalized terms in this contract shall have the meanings ascribed herein or set forth opposite the same in the Specific Terms of this contract.

25. **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 Sellers is to charge the Purchasers a lawful rate of interest, and in the event it is determined by any court of competent jurisdiction that any rate herein provided for exceeds the maximum permitted by law for a transaction of the character evidenced by these presents, the amount so determined to be above the legal rate shall be applied against the last installments of principal due hereunder or, if such principal has been paid, or otherwise at the discretion of the then holder of this contract, said excess shall be refunded to the Purchasers 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.

26. **LEGAL RELATIONSHIPS.** The parties to this contract execute the same solely as sellers and the purchasers. 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 representations 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 benefited by this contract. All persons executing this contract in their individual capacities (or as a general partner or other capacity causing them to be personally liable) acknowledge that this agreement benefits their marital communities and personal recourse may be obtained against the separate property and marital community of any such person and the marital community of such person's spouse.

27. **SUCCESSORS.** Subject to the restrictions contained herein, the rights and obligations of the Sellers and the Purchasers shall inure to the benefit of and be binding upon their respective estates, heirs, executors, administrators, successors 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.

28. 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 Property is situated. All sums herein referred to shall be calculated by and payable in the lawful currency of the United States.

29. ENTIRE AGREEMENT. This contract contains the entire agreement of the parties hereto and, except for any agreements or warranties otherwise stated in writing to survive the execution and delivery of this contract, supersedes all of their previous understandings and agreements, written and oral, with respect to this transaction. Neither the Sellers nor the Purchasers 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 Purchasers and the Sellers subsequent to the date hereof.