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FILED FOR RECORD
SKAMANIA CO. WASH
BY SKAMANIA CO. TITLE

JAN 30 2 10 PM '98

John
AUDITOR
GARY H. OLSON

REAL ESTATE EXCISE TAX

19283

JAN 30 1998

PAID 1832.00

Ch. Olson, Deputy
SKAMANIA COUNTY TREASURER

AFTER RECORDING MAIL TO:

Edward J. Heffernan Sr. & Aurora M. Heffernan
PO Box 537
Grayland WA 98547

Gary H. Martin, Skamania County Assessor
Date 1/30/98 Parcel # 2-6-28-303

Set 2/427 Real Estate Contract and Earnest Money Agreement

1. This is an agreement, made this date below written by and between Edward J. Heffernan Sr. and Aurora M. Heffernan, husband and wife, -----

-----, hereinafter referred to as "Sellers", and Seth Rose Goradietsky, a single man, hereinafter referred to as "Purchaser".

2. **WITNESSETH:** The parties hereto do hereby acknowledge the giving and receiving of consideration, the receipt and adequacy of which is hereby acknowledged in the obligations assumed, covenants and agreements hereinafter contained and other valuable consideration herein exchanged.

3. **NOW THEREFORE,** Sellers do hereby agree to sell, and Purchaser does hereby agree to purchase, upon the following terms and conditions, all that certain real property, as more particularly described on the attached schedule, together with and subject to all those restrictions of record as set forth on a policy of title to be supplied by Skamania County Title Company. Subject property's name being lot # 2 of the Heffernan short plat in NE1/4 of the SW1/4 of SEC. 28, T.2 N., R.6 E., W.M.. Assessor's Property Tax Parcel/Account Number 02-06-28-0-0-003-00/ FULL LEGAL IS ON PAGE 9

4. **PRICE AND TERMS:** The total purchase price of the property is Sixty Five Thousand (\$65,000) Dollars. To be paid as follows: Five Hundred dollars (\$500) earnest money to be deposited in an escrow account at Skamania County Title Company. Six Thousand Five Hundred (\$6,500) Dollars total down payment, to be deposited in escrow

no later than January 26, 1998. Payments of Seven Hundred Seventy Three Dollars and Eight Cents (\$773.08) per month, amortized over a period of ten years with the first payment due on March 1, 1998. Like payments shall be due on the like day of each month thereafter until the entire outstanding balance shall have been paid in full. The outstanding balance of the purchase shall at all times, after the date of closing, bear interest at the rate of TEN PERCENT (10%) per annum. From each payment so made shall first be deducted the interest due upon the unpaid balance and the remainder shall be applied upon the principal. Payments that are received by seller ten (10) days or more beyond the due date shall bear the penalty of Five (5) percent of any and all such late payments in addition to all other such remedies of sellers herein.

Transmission of all payments called for to be made herein to sellers shall be by direct deposit at such depository as shall be designated by sellers in writing from time to time.

5. **CLOSING:** This transaction shall close no later than January 30, 1998. If the closing occurs prior to January 30, 1998 contract payment interest of ten percent (10) shall be prorated and collected in escrow, and paid to sellers upon close.

6. **CLOSING COSTS:** Sellers and purchaser hereby do agree to share equally in all costs of escrow including TITLE INSURANCE, BUT NOT INCLUDING EXCISE TAX, with the standard proration of real property taxes. Cost of recording will be paid by purchaser. The Purchaser further agrees that if he withdraws from the escrow prior to close he will be required to pay any and all of the costs generated within that escrow, with no proration adjustment between Purchaser and Seller.

7. **ASSESSMENTS & TAXES:** Purchaser shall pay before delinquency all taxes and assessments. In the event any taxes or assessments to be paid by Purchaser are paid by Sellers, Purchaser shall promptly reimburse Sellers. Upon failure of Purchaser to pay any taxes or assessments, Sellers may at their option, declare a forfeiture of this contract or pay and discharge any such tax, or assessment, and any amount so paid shall be added to and be secured in the same manner as the unpaid purchase price, and bear interest at the rate of Twelve Percent (12%) per annum, and be due immediately, or Sellers may, at their election, bring suit for the recovery of such sums, together with interest and attorney's fees as hereinafter provided.

8. **IMPROVEMENTS:** All improvements, if any, now existing, or as hereinafter be made to or placed on the property, shall become a part thereof and shall not be removed.

USE OF PROPERTY: Purchaser shall not make nor allow any unlawful use of the property.

9. **CONDEMNATION:** If the property or any part thereof shall be taken and condemned, such taking shall not be a ground for rescission of this contract. The award made for the taking shall be deemed to be the property of the Purchaser, but shall be paid to Sellers to apply upon the purchase price, not exceeding any amounts then unpaid thereunder.

10. **LOGGING RESTRICTIONS:** There is to be no logging or tree falling without advanced express written permission of the Sellers.

DEED: When Purchaser has fully performed this contract, Sellers shall cause to be delivered to Purchaser a statutory warranty deed conveying the property free and clear of all encumbrances save and except: any and all easements, limitations, and/or restrictions of record and as may be visually apparent: those encumbrances as herein above set forth: and/or as agreed by the purchaser, Warranties of title by Sellers are limited to the date of closing except for affirmative acts of the Sellers thereafter.

11. **EARLY PAYOFF:** There will be no early payoff allowed within the first two years of the contract life, UNLESS APPROVED IN ADVANCE BY THE SELLERS. If approval is granted there will be a prepayment penalty of SIX MONTHS INTEREST, to be assessed on the then unpaid balance of the purchase price.

12. **ASSIGNMENT OF CONTRACT:** In the event the Purchaser sells the property, this contract cannot be assumed by the future Purchaser WITHOUT THE EXPRESS WRITTEN PERMISSION OF THE HEREOF MENTIONED SELLERS PRIOR TO THE CLOSE OF ANY SALE. In the event of such sale the full balance of the unpaid purchase price with any interest due at that time as well as any additional sums required by and provided for within this contract will be paid in full.

13. **SELLERS REMEDIES:** After closing in the event the Purchaser is in default under this contract, the Sellers may at their election, take the following course of action:

(a) **Suit for Delinquencies:** The Sellers may institute suit for any installment amount or other sums due and payable under this contract as of the date of the judgment and any sums which have been advanced by the Sellers as of said date pursuant to the provisions of this contract, together with interest on all of said amount at the default rate from the date each such amount was advanced or was 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 its intent to do so (within which time any monetary defaults may be cured without regard to the acceleration), and if the default is in the nature a failure to timely pay any principal, interest, tax assessment, or other sum of money required to be paid, or herein required for a conveyance of the Purchasers' title to the property, or if the Purchaser commit waste on the property, the Sellers may declare the entire unpaid balance of the purchase price and all interest then 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 rights, titles and interest of the Purchaser and Purchaser, its successors in this contract and in the property (including all of Purchaser's then existing rights), interest and estates therein (and timber, crops and improvements thereon) by giving a Notice of Intent to Forfeit pursuant to R.C.W. 6.30.040-070. Upon the forfeiture of this contract the Sellers may take possession of the property ten (10) days following the date this contract is forfeited and summarily eject the Purchaser and any and all persons holding by through or under the Purchaser who were properly given Notice of Intent to Forfeit and the Declaration of Forfeiture. In such event that Purchaser or any person or persons holding

by through or under them remain in possession of the property more than ten (10) days after such forfeiture, the Purchaser, or such 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 Purchaser, and/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.

(d) 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.

e) Receivership: The parties hereto recognize and agree that in the event of default by the Purchaser in making 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 or the possible acceleration of the debts secured by the prior encumbrances. Thereby the Purchaser hereby expressly agree that in the event of any default under this contract which is not cured, the Sellers 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 supplement thereto), to evict tenants therefrom who are not then in compliance with his lease in any portion of 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 that are so received, to apply all of the debts and obligations for which the Purchaser are liable hereunder prior to or during the period of the receivership, including, without limitation, payments on or for this contract, prior encumbrances, taxes, assessments, insurance premiums, utility bills and costs of operating, maintaining, repairing and managing the property. Any sums received by the receiver in excess of said amounts shall be retained by the receiver to discharge all remaining liabilities of the Purchaser under this contract until the entirety of such obligations have been satisfied, at which point any remaining excess amounts shall be paid to the Purchaser without interest.

(f) Property Rental: In the event this contract is forfeited as herein provided, or in any other manner permitted by law, or by mutual agreement of the Purchaser and the Sellers, and the Purchaser shall thereafter remain in possession of the property beyond any period otherwise permitted by law, the Purchaser agree that they will occupy the property as tenants-at-will, and the Purchaser 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 an agreement is reached, in an amount equal to (2) times the installment as when provided for in the specific terms hereof, 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 the landlords under the laws of the State Of Washington, the right to institute and maintain any action for summary possession of the property as provided by law.

14. **REMEDIAL ADVANCES:** If Purchaser fails to timely pay and discharge any payments of sums for which were agreed upon to be their responsibility 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 any prior encumbrances, the Sellers hereto may pay, effect or discharge such sums as necessary to cure such default. Upon affording such payment not less than fifteen (15) days prior written notice The Sellers may recover from the Purchaser, upon demand, or adding the same to the balance of the yet unpaid purchase price, with the full cost and expense of doing so, including but not limited to attorney's fees, with all 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 action is taken.

15. **CUMULATIVE REMEDIES, AND WAIVERS:** The remedies stated herein are cumulative and not mutually exclusive and the Sellers and Purchaser may pursue any other further remedies to enforce his respective rights under this contract. 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 shall be required to pay an additional penalty of \$25 Dollars before that payment is accepted and payee's contractual rights are reinstated. The Purchaser specifically waives any legal and equitable rights that the Purchaser may have regarding the marshalling of assets. The Sellers shall not be required to tender their deed or bill of sale as a condition precedent to the enforcement of any remedy hereunder. Any forbearance, without limitation, a parties acceptance of any payment after a due date or any extension thereof, shall not be considered a waiver of such parties rights to pursue any remedy hereunder for subsequent defaults of the same or a different nature or for any breach of any term, covenant or conditions hereof. No waiver of any rights of either party of this contract shall be effective unless specifically evidenced in a written agreement executed by the waiving party.

16. **COSTS AND ATTORNEY'S FEES:** If either party shall be in default under the terms of this contract, the non-defaulting 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 agrees to pay all costs and fees but not limited reasonable attorney's fees (with or without litigation), and the failure to promptly pay any such fees will in itself constitute a further and additional default.

17. **NOTICES:** Any notices required or permitted by law or under this contract shall be in writing and shall be sent by first class certified or registered mail, return receipt requested, with postage prepaid, to the parties' address set forth in the specific terms of the contract. Either party may change such address set forth in this contract for giving and receiving notices. Purchaser agrees that his failure to notify of a change of address as herein called for shall conclusively entitle Sellers to rely upon the address hereafter set forth for any and all purposes.

18. **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.

19. **SUCCESSORS:** Subject to the restrictions contained herein the rights and obligations of the Sellers and Purchaser shall inure to the benefit of and be binding upon the 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 this 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 in the time periods required of the defaulting party, but except as otherwise required by law, no notices in addition to those provided for by this contract need to be given

20. **ROAD MAINTENANCE AGREEMENT:** The Purchaser of this property hereby agrees to abide by the road maintenance agreement of record for the Heffernan Short Plat regarding the private road Deepwood Lane.

21. **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 provisions 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 in the lawful currency of the United States.

22. **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 previous understandings and agreements, written or oral, with respect to this transaction (including but not limited to earnest money agreements, if any). Neither the Seller nor the Purchaser shall be liable to the other for any representations made by any other person concerning or regarding the terms of this contract, except to the extent that the same are expressed in this instrument. This contract may be amended only by written instrument executed by the Purchaser and the Sellers subsequent to the date hereof.

23. **IN WITNESS WHEREOF,** the parties have hereunto set their hands as is below written by the Notaries Public with this agreement to have immediate force and effect from the date last signed by the last of the parties. Purchaser agrees to be bound upon the transmission to sellers of this last page showing his signature, even if evidenced by fax.

SELLERS

Edward J. Heffernan Sr.
Edward J. Heffernan Sr.
PO Box 537
Grayland, WA 98547 Date 1-29-98

Purchaser

Seth R. Goradietsky
Seth Rose Goradietsky
Date 1-30-98

Aurora M. Heffernan
Aurora M. Heffernan
PO Box 537
Grayland, WA 98547 Date 1-29-98

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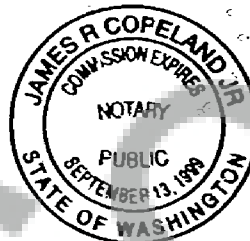
STATE OF WASHINGTON)
COUNTY OF Strommen) ss.

This is to certify that on this day personally appeared before me

Edward J. Heffernan Sr. and Aurora M. Heffernan,
his wife, to me known to be the individuals described in and who executed the within and
foregoing, and acknowledged that they both 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 29 day of January, 1998

James R. Copeland Jr.
Notary Public in and for the State Of Washington,
residing at Strommen



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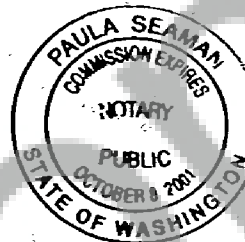
STATE OF WASHINGTON)
COUNTY OF Stemania) ss.

This is to certify that on this day personally appeared before me

Seth Rose Goradietsky, to me known to be the individual described in and who executed the within and foregoing, and acknowledged that signed the same as his free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 30th day of January, 1998

Paula Seaman
Notary Public in and for the State Of Washington,
residing at Sevenson



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EXHIBIT "A"

A tract of land in the Northeast Quarter of the Southwest Quarter of Section 28, Township 2 North, Range 6 East of the Willamette Meridian, in the County of Skamania, State of Washington, described as follows:

Lot 2 of the HEFFERNAN SHORT PLAT, recorded in Book 3 of Short Plat, Page 248, Skamania County Records.

Unofficial Copy

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