

FILED

APR 19 1990

KEY # 39-20-6  
Cora N. Antze  
AUDITOR LAKE COUNTY

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LAND CONTRACT

THIS LAND CONTRACT ("Contract") has been executed this 25<sup>th</sup> day of January, 1990, by Jane McMunn ("Vendor"), and Curtis Fulton and Lynn Marie Fulton, husband and wife, ("Purchasers");

WITNESSETH that the parties agree as follows:

Vendor hereby sells to Purchasers, and Purchasers hereby purchase from Vendor, the following described real estate, together with all improvements thereon or belonging thereto located in Lake County, Indiana ("Real Estate"), being more particularly described as follows:

Part East 1/2 S.W. 165 by 528 feet, Section 30, Township 36, Range 8, 2 acres, as recorded in the Office of the Recorder of Lake County, Indiana.

and commonly known as: 4105 West 41st Street, Gary, Indiana, all upon the following covenants, terms and conditions:

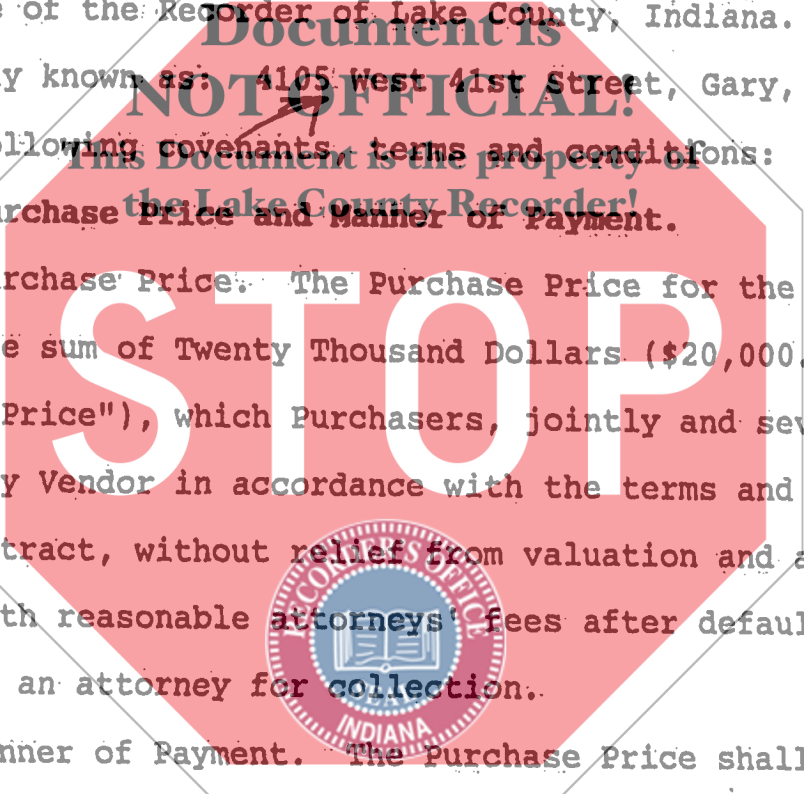
I. Purchase Price and Manner of Payment.

A. Purchase Price: The Purchase Price for the Real Estate shall be the sum of Twenty Thousand Dollars (\$20,000.00) ("Purchase Price"), which Purchasers, jointly and severally, agree to pay Vendor in accordance with the terms and conditions of this contract, without relief from valuation and appraisement laws and with reasonable attorneys' fees after default and referral to an attorney for collection.

B. Manner of Payment. The Purchase Price shall be paid in the following manner:

1. The unpaid principal balance of the Purchase Price ("Contract Balance") in the amount of Twenty Thousand Dollars (\$20,000.00), together with interest in the amount of Seven Thousand Dollars (\$7,000.00), shall be paid to Vendor by Purchasers, in equal monthly installments of One Hundred Fifty Dollars (\$150.00) per month for One Hundred Eighty (180) consecutive months, which installment payments shall commence on 15<sup>th</sup> day of February, 1990, and shall continue thereafter on the 15<sup>th</sup> day of each successive calendar month until the entire Contract Balance, together with all accrued interest thereon, has been paid in full.

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2. Purchasers may make prepayments of any amount due hereunder at any time and without penalty or premium. No partial prepayment of the Contract Balance shall relieve Purchasers from continuing to make scheduled payments as they become due and payable. All payments made by Purchasers, including prepayments, shall be applied first to interest due and payable and the balance, if any, to principal.

3. All payments shall be made to Vendor at: 718 Juniper Road, Valparaiso, Indiana, or to such other place or person as Vendor may direct by written notice to Purchasers.

## II. Taxes and Insurance.

A. Taxes. Purchasers shall pay the taxes on the Real Estate beginning with the real estate taxes for the year 1989 due and payable in 1990 and all installments of taxes payable thereafter. Vendor covenants and agrees to pay, prior to delinquency, all prior real estate taxes on the Real Estate. Purchasers, upon written notice to Vendor and at Purchasers' expense, may contest, on Vendor's and Purchasers' behalf, any changes of the assessed valuation of the Real Estate. Vendor shall forward or cause to be forwarded to Purchasers a copy of all statements for real estate taxes on the Real Estate payable by Purchasers, as received, and Purchasers shall provide to Vendor, upon request, evidence of payment of such taxes.

B. Assessments. Purchasers shall pay all assessments for municipal and other improvements becoming a lien after January 1, 1990. Vendor covenants and agrees to pay all such assessments becoming a lien prior to such date.

C. Insurance. Purchasers shall keep the Real Estate insured under a multi-peril policy in a company approved by Vendor, which approval shall not be unreasonably withheld, and shall pay the premiums on such insurance policies as they become due. Such insurance shall provide hazard insurance coverage against loss by fire, lightning, wind, storm and other perils insurance against in extended coverage riders to fire policies in an amount not less than the Contract Balance or the full extent

of Purchasers' insurable value, whichever is less ("Required Insurance"). The insurance required under this paragraph shall be issued in the names of Vendor and Purchasers as their respective interests appear, and shall provide that the insurer may not cancel or materially change coverage without ten (10) days prior written notice to Vendor. Said policy shall carry a deductible in an amount not to exceed Two Hundred Fifty Dollars (\$250.00). Said insurance, together with all additional or substituted insurance shall contain appropriate riders or loss payable clauses for the protection of the interests of all parties concerned, including the First Mortgagee, if any. At all times such insurance shall at least comply with the insurance required by the First Mortgage. Purchasers shall provide Vendor with such proof of insurance coverage as Vendor from time to time may reasonably request.

Except as otherwise may be agreed in writing, any insurance proceeds received as payment for any loss of or damage to the Real Estate covered by Required Insurance shall be applied to restoration and repair of the loss or damage in such fashion as Vendor reasonably may require, unless such restoration and repair is not economically feasible or there exists an uncured Event of Default by Purchasers under this Contract on the date of receipt of such proceeds, in either of which events, the proceeds may be applied, at Vendor's option, toward prepayment of the Contract Balance, with any excess to be paid to Purchasers.

D. Payment by Vendor. If Purchasers fail to perform any act or to make any payment required of Purchasers under this Agreement, Vendor shall have the right at any time, without notice, to perform any such act or to make any such payment, and in exercising such right, to incur necessary and incidental costs and expenses, including attorneys' fees. Nothing in this provision shall imply any obligation on the part of Vendor to perform any act or to make any payment required of Purchasers.

The exercise of this right by Vendor shall not constitute a release of any obligation or a waiver of any remedy given Vendor

under this Contract, nor shall such exercise constitute an estoppel or bar to the exercise of Vendor of any right or remedy of his for a subsequent failure by Purchasers to perform any act or make any payment required by them.

Payments made by Vendor and all costs and expenses incurred by him in connection with the exercise of such right shall, at the option of Vendor, either (i) be payable to Vendor by Purchasers within thirty (30) days after demand, or (ii) be added to the Contract Balance. Such costs, when added to the Contract Balance, shall bear interest at the annual rate of three percent (3%) over prime as prime is set by the First National Bank of Chicago, Illinois.

**III. Possession.**

Vendor shall give Purchasers full and complete possession of the Real Estate, and the right to any rental income therefrom (which shall be pro-rated as of the date of possession), thirty (30) days from the date of closing.

**IV. Purchasers' Right to Sell.**

At no time during the period of this contract shall Purchasers have the right to sell said real estate without the consent of the Vendor given in writing.

**V. Warranties of Vendor.**

Vendor hereby warrants that Vendor has good and merchantable title to the Real Estate, free and clear of any and all liens, leases, restrictions and encumbrances, except as follows:

- A. Easements and restrictions;
- B. Current real estate taxes not yet delinquent;
- C. Highways and legal rights-of-way;
- D. Ditches and drains.

Vendor further represents and warrants the following as of the date hereof: Vendor has made no contract to sell all or a part of the Real Estate to any person other than the Purchasers; Vendor has not given to any person an option, which is presently exercisable, to purchase all or any part of the Real Estate;

there are no unpaid claims for labor done upon or material furnished for the Real Estate in respect of which liens have been or may be filed; the improvements upon the Real Estate are all located entirely within the bounds of the Real Estate, and there are no encroachments thereon; there are no existing violations of zoning ordinances or other restrictions applicable to the Real Estate; there is no judgment of any court of the State of Indiana or of any court of the United States that is or may become a lien on the Real Estate; and Vendor is neither principal nor surety on any bond payable to the State of Indiana.

**VI. Vendor's Right to Mortgage Real Estate.**

Vendor shall not have the right, without Purchasers' consent, to encumber the Real Estate with a mortgage. Any such mortgage by its terms shall be subordinated to the rights of Purchasers under this contract. In all events, the balance due in respect of any such mortgage at no time shall exceed the unpaid balance of the Purchase Price. If Vendor encumbers the Real Estate by a mortgage, or the Real Estate is on the date of this Contract so encumbered, and Vendor defaults thereunder, Purchasers shall have the right to cure such defaults thereunder, Purchasers shall have the right to cure such default and to deduct the cost thereof from the next payment or payments due under this Contract. Vendor shall pay all amounts due under any such mortgage when due and shall pay, discharge and obtain the release of any such mortgage upon Purchasers' payment in full of the Contract Balance and all interest accrued thereon.

**VII. Transfer of Purchasers' Interest--Condemnation.**

Purchasers' interest in this Contract and Purchasers' interest in the Real Estate may not be sold, assigned, pledged, mortgaged, encumbered or transferred by Purchasers without the written consent of Vendor. If the Real Estate or any part thereof is taken or damaged pursuant to an exercise or threat of exercise of the power of eminent domain, the entire proceeds of the award or compensation payable in respect to the part so taken

or damaged are hereby assigned to and shall be paid directly to Vendor. Such proceeds shall be applied, at Vendor's option and without premium, in part or entirely as a prepayment of the Contract Balance or to restoration of the Real Estate; provided, however, that if by electing to apply part of any such award or compensation against the Contract Balance is paid in full, then Vendor shall pay the balance to the Purchasers.

#### VIII. Mechanic's Liens.

Purchasers shall not permit any Statement of Intention to hold a Mechanic's Lien to be filed against the Real Estate nor against any interest or estate therein by reason of labor, services or materials claimed to have been performed or furnished to or for Purchasers. If such Statement of Intention to hold a Mechanic's Lien shall be filed, Vendor, at Vendor's option, may compel the prosecution of an action for the foreclosure of such Mechanic's Lien by the lienor. If any such Statement of Intention to hold a Mechanic's Lien shall be filed and an action commenced to foreclose the lien, Purchasers, upon demand by Vendor, shall cause the lien to be released at Purchasers' expense by the filing of a written undertaking with a surety approved by the Court and obtaining an order from the Court releasing the property from such lien. Nothing in this instrument shall be deemed or construed to constitute consent to, or a request to any party for, the performance of any labor or services or the furnishing of any materials for the improvement, alteration or repairing of the Real Estate; nor as giving Purchasers the right or authority to contract for, authorize or permit the performance of any labor or services or the furnishing of any material that would permit the attaching of a valid mechanic's lien.

#### IX. Indemnification and Release.

Regardless of whether or not separate, several, joint or concurrent liability may be imposed upon Vendor, Purchasers shall indemnify and hold harmless Vendor from and against all damages,

claims and liability arising from or connected with Purchasers' control or use of the Real Estate, including, without limitation, any damage or injury to person or property. This indemnification shall not include any matter for which the Vendor is effectively protected against by insurance. If Vendor shall become a party to litigation commenced by or against Purchasers, then Purchasers shall indemnify and hold Vendor harmless. The indemnification provided by this paragraph shall include all legal costs and attorneys' fees incurred by Vendor in connection with any such claim, action or proceeding. Purchasers hereby release Vendor from all liability for any accident, damage or injury caused to person or property, from any cause whatsoever, on or about the Real Estate.

**X. Use of the Real Estate by Purchasers; Vendor's Right of Inspection; Purchasers' Responsibility for Accidents.**

A. Use. The Real Estate shall not be rented, leased or occupied by persons other than Curtis Fulton and Lynn Marie Fulton and their immediate family. None of the improvements now or hereafter located on the Real Estate shall be materially changed, remodeled, or altered without the prior written consent of Vendor. No additional improvements shall be placed on the Real Estate without the prior written consent of Vendor. Purchasers, at Purchasers' expense, shall use the Real Estate and the improvements thereon carefully and shall keep the same in good repair. Purchasers shall not commit waste on the Real Estate and, with respect to occupancy and use of the Real Estate, shall comply with all laws, ordinances, and regulations of any governmental authority having jurisdiction thereof.

B. Vendor's Right of Inspection. Until the Purchase Price and all interest thereon is paid in full, Vendor from time to time and at reasonable times, peaceably may enter and inspect the Real Estate.

C. Purchasers' Responsibility for Accidents. Purchasers assume all risk and responsibility for accident, injury or damage

to person and property arising from Purchasers' use and control of the Real Estate and the improvements thereon. Purchasers shall insure such risk by carrying standard liability insurance, in such amounts as are satisfactory to Vendor, insuring the Vendor's liability as well as the Purchasers'.

**XI. Vendor's Remedies on Purchasers' Default.**

It is expressly agreed by Purchasers that time is of the essence of this Contract. If Purchasers fail, neglect or refuse to make any payment under this contract when due or to perform any of Purchasers' promises, terms and conditions when and as required under this contract, Vendor may exercise any of the following remedies:

A. Vendor shall have the right to declare this contract forfeited and terminated, and upon such a declaration, all right, title and interest of Purchasers in and to the Real Estate shall immediately cease and Purchasers shall then be considered as a tenant holding over without permission and Vendor shall be entitled to re-enter and take immediate possession of the Real Estate and to evict Purchasers and all persons claiming under them:

B. Separately or in conjunction with his right under A. above, as Vendor may elect, Vendor shall have the right to file in a court of competent jurisdiction an action to have this contract forfeited and terminated and to recover from Purchasers all or any of the following:

1. possession of the Real Estate;
2. any installments due and unpaid at the time of filing of the action and becoming due and unpaid from that time until possession of the Real Estate is recovered;
3. interest on the principal from the last date to which interest was paid until judgment or possession is recovered by Vendor, whichever shall occur first; provided, however, that this shall not be construed as allowing Vendor to recover any interest which would be included under Item B. 2. above;
4. due and unpaid real estate taxes, assessments, charges and penalties which Vendor is obligated



do, his right, if any, to a hearing preliminary to a judicial order for immediate possession of the Real Estate to be granted to Vendor under applicable law.

Vendor and Purchasers agree that in the event Purchasers default and suit is brought to enforce this contract or seek termination of the contract, the parties agree that issue of whether Purchasers have made a substantial down payment requiring judicial foreclosure of the land contract shall be determined by the court appointing a qualified real estate appraiser (M.A.I. qualified or equivalent) to appraise the property as of the date of Purchasers' default with the charges of the appraiser being added to the court costs in the suit. In the event Purchasers have paid to Vendor on the principal balance of this contract a sum equal to or more than fifteen (15%) percent of the fair market value of the property determined by such an appraisal, the Purchasers shall be determined to have made a substantial down payment and a judicial foreclosure shall be appropriate. In the event the Purchasers' payments are less than fifteen (15%) percent of the fair market value so determined, Purchasers shall be determined to not have made a substantial down payment and judicial foreclosure shall not be required.

All sums payable under this contract are payable with accrued interest and without relief from valuation or appraisement laws. In addition to any other sum payable by Purchasers under this contract, Purchasers shall pay any reasonable expense, including but not limited to attorneys' fees, cost of foreclosure reports or other title evidence, fees of appraisers or other expenses or fees incurred by Vendor in connection with the exercise of any right or remedy under this contract, and the preparation and delivery of notice.

#### XII. Definitions of Default.

The following shall constitute an "Event of Default" for purposes of this Contract:

A. Default by Purchasers for a period of thirty (30) days in the payment of:

to pay under this contract which shall be prorated with Purchasers paying that portion for periods prior to the date possession of the real estate is recovered by Vendor and Vendor assuming the property subject to those expenses for periods after possession is recovered;

5. premiums due and unpaid for insurance which Purchasers are obligated to provide under this contract which shall be prorated with Purchasers paying that portion for periods prior to the date possession of the real estate is recovered by Vendor and Vendor assuming the property subject to those expenses for periods after possession is recovered;
6. the cost of repair of any physical damage or waste to the Real Estate other than damage caused by ordinary wear and tear, acts of God and public authorities;
7. any other amounts (other than payment of the purchase price) which Purchasers are obligated to pay under this contract.

C. In addition to any other remedy under this contract, Vendor shall have such other remedies as are available at law or in equity.

D. In any case, Vendor shall have the right to retain (without prejudice to his right to recover any other sums from Purchasers, or to have any other remedy, under this contract) all payments made by Purchasers to Vendor and all sums received by Vendor as proceeds of insurance or as other benefits or considerations, in each case made or received under this contract.

E. The exercise or attempted exercise of Vendor of any right or remedy available under this contract shall not preclude Vendor from exercising any other right or remedy so available, nor shall any such exercise or attempted exercise constitute or be construed to be an election of remedies, so that no such right or remedy shall be exclusive of any other right or remedy and each and every such right or remedy shall be cumulative and in addition to any other right or remedy available under this contract.

In any judicial proceeding to enforce this contract, Purchasers specifically waive, to the extent they lawfully may

1. any installment of the Purchase Price when due under the terms of this contract;

2. any installment of real estate taxes on the Real Estate or assessment for a public improvement which by the terms of this Contract are payable by Purchasers; or,

3. any premium for insurance required by the terms of this Contract to be maintained by Purchasers;

B. Default, for a period of ten (10) days after written notice thereof is given to Purchasers, in the performance or observation of any other covenant or term of this Contract;

C. Lease or encumbrance of the Real Estate or any part thereof, other than as expressly permitted by this Contract, or the making of any levy, seizure or attachment thereof or thereon or a substantial, uninsured loss of any part of the Real Estate;

D. Purchasers;

1. institute or consent to any proceedings in insolvency or bankruptcy, or for the adjustment, liquidation, extension or composition or arrangement of debts or for any other relief under any bankruptcy or insolvency law or laws relating to the relief or reorganization of debtors;

2. are adjudicated a bankrupt, file an answer admitting bankruptcy or insolvency or in any manner are adjudged insolvent; or,

3. make an assignment for the benefit of creditors or admits in writing inability to pay debts as they become due;

E. Any part of the Real Estate or all or a substantial part of the property or assets of Purchasers is placed in the hands of any receiver, trustee or other officers or representatives of any court, or Purchasers consent, agree or acquiesce to the appointment of any such receiver or trustee;

F. Desertion or abandonment of the Real Estate, or any part thereof, by Purchasers;

G. Actual or threatened alteration, demolition or removal of any improvements which are a part of the Real Estate, except as expressly allowed by the terms of this Contract;

H. Sale, transfer, conveyance or other disposition of Purchasers' interest in this Contract or Purchasers' interest in the Real Estate, or any part thereof, without Vendor's prior written consent.

**XIII. Additional Covenants and Representations of Vendor.**

Upon payment by Purchasers of the Purchase Price in full, with all interest accrued thereon, and the performance by Purchasers of all covenants and conditions which by the terms of this Contract are to be performed by Purchasers, Vendor agrees and covenants to convey the Real Estate to Purchasers by General Warranty Deed; subject only to easements and restrictions of record as of the date of this Contract; highways and legal rights-of-way; to the rights of persons in possession; to the lien of all taxes and assessments payable by Purchasers hereunder; and to any other encumbrances which, by the terms of this Contract, are to be paid by Purchasers.

**XIV. Indemnification.**

If Vendor shall incur or expend any sums, including, but not limited to, reasonable attorneys' fees whether in conjunction with any action or proceedings or not, to enforce the terms and provisions of this Contract, or to protect or enforce Vendor's rights hereunder, or to recover any amount due under this Contract, all such sums shall become immediately due and payable by Purchasers, with interest thereon at the per annum rate of three percent (3%) over the prime rate as established by the First National Bank of Chicago, Illinois. All such sums shall be added to the Contract Balance and shall be the obligation of the Purchasers to pay prior to obtaining title to the Real Estate.

**XV. General Agreement of Parties.**

This Contract shall extend to and be binding upon the heirs, personal representatives, successors and assigns of the parties. When applicable, use of the singular form of any word also shall mean or apply to the plural. Any notices to be given hereunder shall be deemed sufficiently given when:



Purchaser's Acknowledgement

STATE OF INDIANA)  
 ) SS:  
COUNTY OF PORTER)

Before me, a Notary Public in and for said County and State,  
personally appeared Curtis Fulton and Lynn Marie Fulton who  
acknowledged the execution of the foregoing Land Contract.  
Witness my hand and Notary Seal this 25 day of January,  
1990.

  
Richard J. Rupsich, Notary Public  
Resident of Porter County

My Commission Expires:  
June 8, 1990



Prepared by: Richard J. Rupsich  
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