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mail + 4 X statements:

1026 Devonshire St.

Hobart, IN 46342

# CONTRACT FOR CONDITIONAL SALE OF REAL ESTATE

THIS CONTRACT, made and entered into by and between James Russell

\_\_\_\_\_, (hereinafter called "Seller") and  
Brent T. Lemaich

\_\_\_\_\_, (hereinafter called "Buyer")

"Each of the above individuals being over eighteen (18) years of age."

### WITNESSETH:

Seller hereby agrees to and does sell to Buyer, and Buyer hereby agrees to and does purchase from Seller, the following described real estate (including any improvement or improvements now or hereafter located on it) in Lake County, Indiana, (such real estate, including improvements, being hereinafter called the "Real Estate"):

Lot 14 in Block 4 in Earle and Davis Addition to Hobart, as per plat thereof, recorded in Miscellaneous Record "A" page 486, in the Office of the Recorder of Lake County, Indiana.

upon the following covenants, terms and conditions:

### SECTION 1. THE PURCHASE PRICE AND MANNER OF PAYMENT.

1.01. THE PURCHASE PRICE. As the purchase price for the Real Estate, Buyer agrees to pay to Seller and Seller agrees to accept from Buyer the sum of fifty thousand and no/100.  
Dollars (\$ 50,000.00).

1.02. THE MANNER OF PAYMENT. The purchase price shall be paid in the following manner:

(a) The sum of eight thousand and no/100.  
Dollars (\$ 8,000.00)

upon the execution and delivery of this Contract. The receipt of such sum is hereby acknowledged by Seller, leaving an unpaid balance of the purchase price in the sum of forty-two thousand and no/100.  
Dollars (\$ 42,000.00).

That amount, as it is reduced by payments and expenses of Buyer properly credited under this Contract, and as it is increased by payments and expenses of Seller properly made and incurred under this Contract, is hereinafter called the "Unpaid Purchase Price".

(b) The Unpaid Purchase Price shall bear interest at the rate of nine per cent (9 %) per annum. Interest at such rate shall begin to accrue from the date of this Contract, or from the date payments made and costs and expenses incurred by Seller are added to the Unpaid Purchase Price pursuant to this Contract, as may be applicable.

(c) The Unpaid Purchase Price and interest on it shall be paid in monthly installments in the amount of three hundred thirty-four and no/100. Dollars (\$ 334.00), beginning July 4, 1998 Subsequent installments shall be paid on the same day of each month thereafter until August 1, 1999, at which time the Unpaid Purchase Price, with accrued but unpaid interest, shall be paid in full.

(d) Buyer shall have a grace period of seven (7) days from the due date of any installment required under this Contract within which to pay such installment. If such installment is not actually received by Seller within the grace period, then a late charge in a sum equal to five per cent (5%) of such installment shall accrue and be immediately due and payable.

(e) Each installment received by Seller shall be applied: first to accrued late charge, then to interest accrued to the due date of such installment, and then to the reduction of the Unpaid Purchase Price. Interest shall be computed monthly unless both Seller and Buyer initial here \_\_\_\_\_, in which case interest shall be computed interest in arrears

(f) Each payment under this contract shall be sent to Seller at the following address: James Russell, 403 North, 325 East, Valparaiso, IN 46383, or at such other address as Seller shall designate in writing.

### SECTION 2. PREPAYMENT OF PURCHASE PRICE.

2.01. Buyer shall have the privilege of paying without penalty, at any time, any sum or sums in addition to the payments herein required. It is agreed that no such prepayments, except payment in full, shall stop the accrual of interest on the amounts so paid until the next succeeding computation of interest after such payment is made. Interest shall not accrue after the date on which Buyer makes any payment that constitutes full payment of the Unpaid Purchase Price.

### SECTION 3. TAXES, ASSESSMENTS, INSURANCE, AND CONDEMNATION.

3.01. TAXES. Buyer agrees to assume and pay the taxes on the Real Estate beginning with the installment payable May, 1999, together with all installments of real estate taxes due and payable thereafter, and Seller agrees to pay all taxes on the Real Estate due prior to said installment. Buyer, upon written notice to Seller, and at Buyer's expense, may contest on behalf of the parties any changes in the assessed value of the Real Estate. Seller shall forward or cause to be forwarded to Buyer, when received, a copy of all statements for taxes and any assessments on the Real Estate which are payable by Buyer hereunder, and Buyer shall provide to Seller, upon request, evidence of payment of such taxes and assessments.

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3.02. **ASSESSMENTS.** Buyer agrees to pay any assessments or charges upon or applying to the Real Estate for public or municipal improvements which, after the date of this Contract, are assessed or charged to the Real Estate. Seller agrees to pay any such assessments or charges to and including this Contract.

3.03. **PENALTIES.** The parties hereto agree to pay any penalties, whether in the form of interest or otherwise, in connection with the late or untimely payment of such taxes, assessments or charges, for which they are responsible under this Section 3.

3.04. **INSURANCE.** At all times during the period of this Contract, Buyer shall:

(a) Keep the improvements located upon the Real Estate insured under fire and extended coverage policies in an amount not less than the Unpaid Purchase Price, and

(b) Keep Flood Hazard Insurance on the Real Estate in the amount of the Unpaid Purchase Price or the highest amount available if less than the Unpaid Purchase Price if the Real Estate is located in a Flood Hazard Zone as shown by a current certificate of survey according to the maps in the office of the County Surveyor, unless such insurance coverage is waived in writing by the Seller, and

(c) Keep standard liability insurance with coverages in amounts not less than One Hundred Thousand Dollars (\$100,000.00) per person and Three Hundred Thousand Dollars (\$300,000.00) per occurrence, and

(d) Pay premiums on such insurance policies as they become due and provide Seller with written proof of such insurance coverage annually and as Seller may reasonably request. Such policies of insurance shall be carried with a company or companies approved by Seller and legally authorized by the State of Indiana to engage in such business. Such policies of insurance shall also be issued in the name of Seller and Buyer, as co-insureds and shall provide that the insurer may not cancel or materially change coverage without at least thirty (30) days prior written notice to Seller and Buyer.

Except as otherwise agreed hereafter in writing, Buyer shall not enter into the settlement of any insurance claim covered under the foregoing insurance policies without the written consent of Seller. Any insurance proceeds received as payment for any loss of, or damage to the Real Estate covered by said insurance, shall be applied to the restoration and repair of the loss or damage. All restoration and repairs shall be performed in accordance with all state and local building codes and shall meet the quality of the improvements pre-existing any loss or damage and all work shall be performed by a duly licensed contractor. Notwithstanding the above provisions, if there exists an uncured Event of Default by Buyer under this Contract on the date of receipt of such proceeds, the proceeds may be applied, at Seller's option, toward pre-payment of the Unpaid Purchase Price, with any excess to be paid to Buyer.

3.05. **RIGHTS OF PARTIES TO PERFORM OTHER'S COVENANTS.**

(a) If one of the parties hereto (hereinafter called "Responsible Party") fails to perform any act or to make any payment required by this Section 3, the other party (hereinafter called "Nonresponsible Party") shall have the right at any time and 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 attorney fees. Nothing in this provision shall imply any obligation on the part of the Nonresponsible Party to perform any act or to make any payment required of the Responsible Party under the terms of this Contract.

(b) The exercise of such right by a Nonresponsible Party shall not constitute a release of any obligation of the Responsible Party under this Section 3 or a waiver of any remedy available under this Contract; nor shall such exercise constitute an estoppel to the exercise by a Nonresponsible Party of any right or remedy of his for a subsequent failure by the Responsible Party to perform any act or make any payment required by him under this Section 3.

(c) Payments made and all costs and expenses incurred by a Nonresponsible Party in connection with the exercise of such right shall, at his option, either (i) be paid to him by the Responsible Party within thirty (30) days after written demand therefore; or (ii) on the date the next installment payment is due under this Contract, following written notice, be added to the Unpaid Purchase Price, if Buyer is the Responsible Party, or applied to reduce the Unpaid Purchase Price, if Seller is the Responsible Party.

(d) In the event a Nonresponsible Party makes any such payments or incurs any such costs and expenses, the amount thereof shall bear interest at the rate provided under Section 1 of this Contract, from the respective dates of making the same, until paid in full, or to the date such amounts are added to, or applied against, the Unpaid Purchase Price.

3.06. **CONDEMNATION.** From the date hereof, Buyer shall assume all risk of loss or damage by reason of condemnation or taking of all or any part of the Real Estate for public or quasi-public purposes, and no such taking shall constitute a failure of consideration or cause for rescission of this Contract by Buyer. Should all or any part of the Real Estate be condemned and sold by court order, or sold under the threat of condemnation to any public or quasi-public body, the net amount received for the damage portion shall be retained by Buyer, and net amount received for the Real Estate value shall be paid to Seller and applied as a reduction of the Unpaid Purchase Price. The authority and responsibility for negotiation, settlement, or suit shall be Buyer's. If buyer incurs expenses for appraisers, attorneys, accountants or other professional advisers, whether with or without suit, such expenses and any other applicable costs shall be deducted from the total proceeds to calculate the "net amount" and shall be allocated proportionately between the amount determined as damages and the amount determined for value of the Real Estate. If no determination is made of separate amounts for damages and Real Estate value, then the net amount shall be divided equally between Buyer and Seller, with Seller's amount to be applied as a reduction of the Unpaid Purchase Price.

#### SECTION 4. POSSESSION.

4.01. **DELIVERY OF POSSESSION.** Seller shall deliver to Buyer full and complete possession of the Real Estate on or before signing of contract. After such possession date, Seller shall pay to Buyer

Dollars (\$ \_\_\_\_\_) per day for each day Seller withholds possession of any portion of the Real Estate from Buyer, and such amount shall be applied to a reduction of the Unpaid Purchase Price. Such payment, however, shall not serve to extend the date upon which possession must be delivered to Buyer. Buyer's right of possession shall continue until terminated pursuant to Section 9. All utilities shall be paid by Seller to the date possession is given.

4.02. **CROPS.** All crops which have been planted upon the Real Estate prior to \_\_\_\_\_, shall belong to Seller, who shall have the right of ingress and egress across the Real Estate for the purpose of harvesting such crops. All other crops shall belong to Buyer.

#### SECTION 5. EVIDENCE OF TITLE. (If title evidence is furnished herewith, strike Subsection 5.02)

5.01 Seller has furnished Buyer:

~~An Abstract of Title~~

(strike one)

An Owner's title insurance policy

disclosing marketable title to the Real Estate to date of April 29, 1998, subject, nevertheless, to the following exceptions:  
Easements, covenants and restrictions contained in prior instruments of record.

(If title evidence is to be furnished after execution of this Contract, strike Subsection 5.01)

5.02. If Buyer is not in default under this Contract, Seller will furnish Buyer:

~~An Abstract of Title~~

(strike one)

~~An Owner's title insurance policy~~

disclosing marketable title to the Real Estate to a date which is the earlier of (a) a date after execution of this Contract specified by Buyer in a notice to Seller or (b) a date 60 days prior to the date the final payment under this Contract is due.

5.03. **TITLE INSURANCE.** A title insurance policy furnished under this Contract shall be in the amount of the purchase price and shall be issued by an insurer satisfactory to Buyer.

5.04. **ADDITIONAL TITLE EVIDENCE.** Any additional title evidence shall be at the expense of Buyer, provided, however, that the cost of additional title evidence necessitated by the acts or omissions of Seller shall be borne by Seller.

5.05. **CONVEYANCE OF TITLE.** Seller covenants and agrees that upon the payment of all sums due under this Contract and the prompt and full performance by Buyer of all covenants and agreements herein made, Seller will convey or cause to be conveyed to Buyer, by Warranty Deed, the above described Real Estate, subject to restrictions and easements of record as of the date of this Contract and all taxes and assessments which are Buyer's obligations.

#### SECTION 6. SELLER'S RIGHT TO MORTGAGE THE REAL ESTATE.

6.01. **MORTGAGE LOAN.** Without Buyer's consent and without obligation to Buyer except as set forth in this Section 6, Seller shall have the right to retain, obtain, renew, extend or renegotiate a loan or loans secured by mortgage(s) on the Real Estate (all instruments evidencing a loan(s) and a mortgage(s) securing it is hereinafter called "Loan"), provided that the terms of each loan do not conflict with the provisions of Section 6 or any other provision of this Contract. Seller shall pay each loan when due.

6.02. **PROVISION OF LOAN.** Each Loan made by Seller shall:

(a) be in such principal amount that the aggregate principal balance of all Loans shall not exceed the Unpaid Purchase Price for the Real Estate;

(b) have total periodic payments which do not exceed the periodic payments by Buyer under this Contract, and shall provide for the regular amortization rate of the principal of Seller's Loan which exceeds the amortization rate of the Unpaid Purchase Price of this Contract;

(c) provide for prepayment in full at Seller's option, whether with or without premium, at any time.

6.03. **NOTICE OF LOAN.** Contemporaneously with the execution of a Loan, Seller shall give Buyer written notice and inform Buyer in reasonable detail of the principal amount of the Loan, the name and address of the mortgagee, the installments payable under the Loan, and such other terms as Buyer may reasonably request.

6.04. **DEFAULT OF LOAN.** In the event of Seller's default of a Loan, Buyer shall have the right, on behalf of Seller, to make loan payments or to cure other defaults. Seller shall, upon written demand of Buyer, pay to Buyer the amount of any such payments and the costs incurred by Buyer incurring other defaults (including in such costs Buyer's attorney fees) plus interest at the rate under this Contract, interest on such amount or costs being computed from date of payment or incurring of such costs until paid. Buyer shall have the option to deduct the amount of such payments, costs, and interest from payments payable under this Contract.

6.05. **RELEASES.** Upon payment in full by Buyer of all amounts payable under this Contract, Seller shall pay in full all amounts payable under Loan(s) at the time outstanding and obtain and record, or cause to be recorded, a valid release of Loan(s) so paid.

6.06. **ENCUMBRANCE.** Seller represents that the Real Estate (is) (is not) encumbered with a Loan. If encumbered, Seller represents that the information regarding said Loan is as follows:

(a) Name of lender NONE

(b) Unpaid balance of Loan N/A

#### SECTION 7. ASSIGNMENT OF CONTRACT OR SALE OF INTEREST IN REAL ESTATE.

7.01. If all or any part of the Real Estate, Buyer's interest therein or Buyer's interest in this Contract is sold or assigned without Seller's prior written consent, the Unpaid Purchase Price, with accrued, but unpaid interest and all other sums due here under shall be due and payable immediately, at Seller's option. No assignment or sale shall operate to relieve either party from liability hereon.

#### SECTION 8. USE OF THE REAL ESTATE BY BUYER; SELLER'S RIGHT TO INSPECTION.

8.01. **USE.** The Real Estate (may) (~~may not~~) be leased or occupied by persons other than Buyer without prior written consent of Seller, which consent shall not be unreasonably withheld.

8.02. **IMPROVEMENTS.** ~~Buyer may materially alter, change, or remove any improvements now or hereafter located on the Real Estate, or make any additional improvements, only with prior written consent of Seller, which consent shall not be unreasonably withheld.~~ Buyer shall not create, or allow any mechanics, laborers, materialmen, or other creditors of Buyer or an assignee of Buyer to obtain, a lien or attachment against Seller's interest herein. Buyer agrees that the Real Estate and any improvements thereon are, as of the date of this Contract, in good condition, order, and repair, and Buyer shall, at his own expense, maintain the Real Estate and any improvements in as good order and repair as they are in on the date of this Contract, ordinary wear and tear, and acts of God, or public authorities excepted. Buyer shall not commit waste on the Real Estate, and, with respect to occupancy and use, shall comply with all laws, ordinances and regulations of any governmental authority having jurisdiction thereof.

8.03. **INSPECTION.** Seller shall have the right to enter and inspect the Real Estate at any reasonable time.

8.04. **BUYER'S RESPONSIBILITY FOR ACCIDENTS.** Buyer assumes all risk and responsibility for injury or damage to person or property arising from Buyer's use and control of the Real Estate and any improvements thereon.

8.05. **ENVIRONMENTAL REPRESENTATIONS, WARRANTIES, AND COVENANTS OF PARTIES.** The Parties make the following representations, warranties, and covenants:

(a) Seller warrants and represents to the best of his knowledge, ~~there do not currently exist,~~ and Buyer warrants, represents, and covenants there will not exist during the term of this Contract, any actual or potential contamination of the soil, subsoil, groundwater, or any other portion of the Real Estate by any hazardous or toxic substance or their constituents, or any underground tanks on the Real Estate (other than for the use of heating oil for use and consumption of Buyer on the Real Estate).

(b) Seller warrants and represents to the best of his knowledge, Seller and Seller's predecessors in title have complied at all times with all applicable federal, state, and local environmental laws and regulations including, without limitation, the Indiana Responsible Property Transfer Law ("IRPTL") (IC 13-7-22.5), the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. Section 9601, et seq.), as amended by the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. Section 101, et seq.), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901, et seq.), the Toxic Substance Control Act of 1976 (15 U.S.C. Section 2601, et seq.), and all regulations under them, and any other federal statute and any state statute and any municipal ordinance creating liability for treatment, storage, disposal, arranging, or existence on the Real Estate of any hazardous or toxic substance, including their constituents. ("Environmental Laws")

(c) Buyer covenants to comply at all times during the term of this Contract with all Environmental Laws.

(d) Seller warrants and represents to the best of Seller's knowledge, no environmental filings have been made concerning the Real Estate with any governmental agency.

(e) Each of the parties indemnifies the other against, and holds the other harmless from, any claim, action, loss, damage, liability, cost, or expenses (including attorney fees and all reasonable environmental testing expenses such party incurs as a result of the other party's breach of any representation, warranty, or covenants made in this Section 8.05).

8.06. **INDEMNIFICATION.** In addition to the provision of 8.05, Buyer agrees to indemnify and save harmless Seller from and against any and all claims, liability, damage, costs or expense which Seller may incur by reason of the Buyer's use or occupancy of the Real Estate, or arising out of any act of the Buyer, Buyer's agents, licensees and invitees.

#### SECTION 9. BUYER'S DEFAULT AND SELLER'S REMEDIES.

9.01. **TIME.** Time is of the essence of this Contract.

9.02. **BUYER'S DEFAULT.** Upon the occurrence of any Event of Default, as hereinafter defined, Seller shall have the right to pursue immediately any remedy available under this Contract as may be necessary or appropriate to protect Seller's interest under this Contract and in the Real Estate.

9.03. **EVENT OF DEFAULT.** The following shall each constitute an Event of Default for purposes of this Contract:

(a) Failure by Buyer for a period of 15 days [not less than seven (7) days] to pay any payments required to be made by Buyer to Seller under this Contract when and as it becomes due and payable.

(b) Lease or encumbrance of the Real Estate or any part thereof by Buyer, other than as expressly permitted by this Contract.

(c) Causing or permitting by Buyer of the making of any levy, seizure or attachment of the Real Estate or any part thereof.

(d) Occurrence of an uninsured loss with respect to the Real Estate or any part thereof.

(e) Institution of insolvency proceedings against Buyer, or the adjustment, liquidation, extension or composition or arrangement of debts of Buyer or for any other relief under any insolvency law relating to the relief of debtors; or, Buyer's assignment for the benefit of creditors or admission in writing of his inability to pay his debts as they become due; or, administration by a receiver or similar officer of any of the Real Estate.

(f) Desertion or abandonment by Buyer of any portion of the Real Estate.

(g) Actual or threatened alteration, demolition, waste or removal of any improvement now or hereafter located on the Real Estate, except as permitted by this Contract.

(h) Failure by Buyer, for a period of thirty (30) days after written notice is given to Buyer, to perform or observe any other covenant or term of this Contract.

9.04. **SELLER'S REMEDIES.** Upon the occurrence of an Event of Default, Seller shall elect his remedy under Subsection 9.041 or 9.042 (unless Subsection 9.043 is applicable).

9.041. Seller may declare this Contract forfeited and terminated, and upon such declaration, all right, title and interest of Buyer in and to the Real Estate shall immediately cease and Buyer shall then be considered as a tenant holding over without permission and Seller shall be entitled to re-enter and take immediate possession of the Real Estate and to eject Buyer and all persons claiming under him. Further, Seller shall have the right to institute legal action to have this Contract forfeited and terminated and to recover from Buyer all or any of the following:

(a) possession of the Real Estate;

(b) any payment 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;

(c) interest on the Unpaid Purchase Price from the last date to which interest was paid until judgment or possession is recovered by Seller, whichever shall occur first; provided, however, that this shall not be construed as allowing Seller to recover any interest which would be included under Subsection 9.041 (b) above;

(d) due and unpaid real estate taxes, assessments, charges and penalties which Buyer is obligated to pay under this Contract;

(e) premiums due and unpaid for insurance which Buyer is obligated to provide under this Contract;

(f) the reasonable cost of repair of any physical damage or waste to the Real Estate other than damage caused by ordinary wear and tear and acts of God or public authorities; and

(g) any other amounts which Buyer is obligated to pay under this Contract; or

