

FILED

OCT 20 1988

LAND CONTRACT

PETER BENJAMIN  
LAKE COUNTY AUDITOR

THIS LAND CONTRACT ("Contract") has been executed of August 1987, by Barbara R. Divich, Lola M. Kushner and Charlene Fassa ("Vendor"), and T.W.W.P. Transport, ("Purchaser"): WITNESSETH that the parties agree as follows:

Vendor hereby sells to Purchaser, and Purchaser hereby purchases 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 of the Southeast Quarter of Section 5, Township 36 North, Range 7 West of the 2nd P.M., in the City of Gary, Lake County, Indiana, being that part of said Quarter Section bounded on the South by the Northerly line of U.S. Highway No. 20, on the North by the Southerly line of the right of way of the Baltimore and Ohio Railroad; on the East by a line parallel with and 500 feet West of, measured along said U.S. Highway No. 20, the East line of said Quarter section; and on the West by a line parallel with and 800 feet West of, measured along said highway, on the East line of said Quarter section, except therefrom that part of the real estate described as follows: Beginning at a point in the East line of Section 5, Township 36 North, Range 7 West of the 2nd P.M. and the North line of U.S. Highway No. 20 (Melton Road); thence West along the North line of U.S. Highway No. 20 (Melton Road) a distance of 520 feet to the place of beginning of the following described property: Beginning at said point, thence North along a line parallel with the East line of said section a distance of 250 feet, thence West a distance of 280 feet; thence South along a line parallel with the East line of said Section a distance of 250 feet to a point in the North line of U.S. Highway No. 20 (Melton Road); thence Southeast to the point of beginning, all in the City of Gary, Lake County, Indiana.

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STATE OF INDIANA  
LAKE COUNTY  
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all upon the following covenants, terms and conditions:

1. Purchase Price and Manner of Payment.

(a) Purchase Price. The Purchase Price for the Real Estate shall be the sum of Twenty Eight Thousand and Twenty and 00/100 Dollars (\$28,020.00) ("Purchase Price"), which Purchaser agrees 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 sum of Five Thousand and Twenty Dollars (\$5,020.00) shall be paid upon execution and delivery of this Contract to Vendor by Purchaser and Vendor acknowledges receipt of such payment.

(2) The remaining unpaid principal balance of the Purchase Price ("Contract Balance") shall be paid to Vendor by Purchaser, together with interest at the rate of Eleven Percent (11%) per annum ("Per Annum Rate"), as follows:

(i) With interest computed from August 5, 1987 on the monthly unpaid Contract Balance at the Per Annum Rate, in equal monthly installments of Five Hundred and 08/100 principal and interest

Dollars (\$ 500.08 ) per month for thirty-six (36) consecutive months, and a final installment of Ten Thousand Seven Hundred and 10/100 dollars (\$ 10,780.00 ), which installment payments shall commence on September 5, 1987, and shall continue thereafter on the 5th day of each successive calendar month until the

Wilbert Hinkle  
7800 E. Melton Road  
P.O. Box 2599  
Gary, In. 46403

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entire Contract Balance, together with all accrued interest thereon, has been paid in full;

(3) Purchaser 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 Purchaser from continuing to make scheduled payments as they become due and payable. All payments made by Purchaser, including prepayments, shall be applied first to interest due and payable and the Balance, if any, to principal.

(4) All payments shall be made to Vendor as follows:

One-third (1/3) of the monthly payment of \$500.08 or 166.69 and one-third of the balance due after thirty-six (36) months \$10,718.00 or \$3,572.66, to each of the following:

Barbara R. Divich, 8760 N.W. 17th Ct. Pembroke Pines, FL 33024	Lola M. Kushner 8760 N.W. 17th Ct. Pembroke Pines, FL 33024	Charlene Fassa 4451 Lauderdale Ave. Glendale, Cal. 91214
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or to such other place or person as Vendor may direct by written notice to Purchaser.

## 2. Taxes and Insurance.

(a) **Taxes.** Purchaser shall pay the taxes on the Real Estate beginning with the real estate taxes for the last half of the year 1986, due and payable in November, 1987, 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. Purchaser, upon written notice to Vendor and at Purchaser's expense, any contest on Vendor's and Purchaser's behalf, any changes of the assessed valuation of the Real Estate. Vendor shall forward or cause to be forwarded to Purchaser a copy of all statements for real estate taxes on the Real Estate payable to Purchaser, as received, and Purchaser shall provide to Vendor evidence of payment of such taxes.

(b) **Assessments.** Purchaser shall pay all assessments for municipal and other improvements becoming a lien after August 5, 1987. Vendor covenants and agrees to pay all such assessments becoming a lien prior to such date.

(c) **Insurance.** Purchaser agrees to procure and maintain fire and extended coverage insurance with a responsible insurer upon all improvements on the Real Estate, in an amount not less than the Contract Balance or the full extent of Purchaser's insurable value, whichever is less ("Required Insurance"). The Required Insurance shall be issued in the names of Purchaser and Vendor, as their respective interests may appear, and shall provide that the insurer may not cancel or materially change coverage without ten (10) days' prior written notice to Vendor. Purchaser shall provide Vendor with such proof of insurance coverages as Vendor from time to time shall 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 and Vendor reasonably may require, unless such restoration and repair is not economically feasible or there exists an uncured Event of Default by Purchaser 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 Purchaser.

(d) **Payment by Vendor.** Upon failure of Purchaser to pay taxes or assessments on the Real Estate or to provide insurance as required under this Contract, Vendor, upon written notice to Purchaser, may pay such taxes or assessments or obtain and maintain such insurance and add the same to the Contract Balance.

3. **Possession.** Vendor shall give Purchaser full and complete possession of the Real Estate, and the right to any rental income



therefrom (which shall be prorated as of the date of possession), on August 5, 1987.

**4. Evidence of Title.**

(a) Vendor has furnished to Purchaser, at Vendor's expense, a binder for an owner's policy of title insurance ("Title Binder") issued by Lawyer's Title Insurance Corporation, by which such title insurance company has agreed to insure, in the full amount of the Purchase Price, merchantable title to Purchaser as a contract purchaser upon execution and delivery of this Contract to Purchaser by Vendor. Upon execution of this contract by Purchaser and Vendor, Vendor shall pay all unpaid premiums for such title insurance. Any further evidence or assurance of title shall be obtained by Purchaser at Purchaser's expense.

**5. 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:

(i) Easements and restrictions of record as disclosed in the Title binder;

(ii) Current real estate taxes not yet delinquent; and

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 Purchaser; 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 materials 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 Seller is neither principal nor surety on any bond payable to the State of Indiana.

**6. Vendor's Right to Mortgage Real Estate.** Vendor shall not have the right, without Purchaser's consent to encumber the Real Estate with a mortgage. Any such mortgage by its terms shall be subordinated to the rights of Purchaser 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, Purchaser 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 Purchaser's payment in full of the contract Balance and all interest accrued thereon.

**7. Transfer of Purchaser's Interest.--Condemnation.** Purchaser's interest in this Contract and Purchaser's interest in the Real Estate may not be sold, assigned, pledged, mortgaged, encumbered or transferred by purchaser without the written consent of Vendor. If the Real Estate or any part thereof is taken or damaged pursuant to an exercise of the power of eminent domain, the entire proceeds of the award or compensation payable in respect of the part to take 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, the Contract Balance is paid in full, then Vendor shall pay the balance to Purchaser.

**8. Mechanic's Liens.** Purchaser 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 herein by reason of labor, services or materials claimed to have been performed or furnished to or for Purchaser. 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, Purchaser, upon demand by Vendor, shall cause the lien to be released at Purchaser's 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 material for the improvement, alteration or repairing of the Real Estate; nor as giving Purchaser 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.

9. **Indemnification and Release.** Regardless of whether or not separate, several, joint or concurrent liability may be imposed upon Vendor, Purchaser shall indemnify and hold harmless Vendor from and against all damages, claims and liability arising from or connected with Purchaser's 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 without fault, shall become a party to litigation commenced by or against Purchaser, then Purchaser shall indemnify and hold Vendor harmless. The indemnification provided by this paragraph shall include all legal costs and attorney's fees incurred by Vendor in connection with any such claim, action or proceeding. Purchaser hereby releases Vendor from all liability for any accident, damage or injury caused to person or property on or about the Real Estate (whether or not due to negligence on the part of Vendor) (excepting liability of Vendor for Vendor's negligence) and notwithstanding whether such acts or omissions be active or passive.

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

(a) **Use.** The Real Estate shall not be rented, leased or occupied by persons other than T.W.W.P. Transport. 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 improvement shall be placed on the Real Estate without the prior written consent of Vendor. Purchaser, at Purchaser's expense, shall use the Real Estate and the improvements thereon carefully and shall keep the same in good repair. Purchaser 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) **Removal of Sand.** Purchaser shall not remove and Vendor reserves unto itself the sand in, upon and under the above-described real estate until the entire Contract Balance is paid in full; provided that purchaser may remove such sand as is reasonably necessary to make the improvements contained in the attached Exhibit "A", or such future improvements for which Purchaser has obtained prior written consent of Vendor pursuant to paragraph 10(a).

(c) **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.

(d) **Purchaser's Responsibility for Accidents.** Purchaser hereby assumes all risk and responsibility for accident, injury or damage to

property arising from Purchaser's use and control of the Real Estate and the improvements thereon. Purchaser 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 Purchaser's.

11. **Default and Acceleration.** It is expressly agreed by Purchaser that time is of the essence of this Contract. Upon the occurrence of any Event of Default, as hereinafter defined, and at any time thereafter, the entire Contract Balance, and all accrued, unpaid interest thereon, shall, at the option of Vendor, become immediately due and payable without any notice, presentment, demand, protest, notice of protest, or other notice or dishonor or demand of any kind. all of which are hereby expressly waived by Purchaser, and Vendor shall have the right to pursue immediately any and all remedies, legal or equitable, as are available under applicable law to collect such Contract Balance and accrued interest, to foreclose this Land Contract, and as may be necessary or appropriate to protect Vendor's interest under this contract and in and to the Real Estate. The following shall each constitute an "Event of Default" for purposes of this contract:

(a) Default by Purchaser for a period of thirty (30) days in the payment of (i) any installment of the Purchase Price when due under the terms of this contract, (ii) 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 Purchaser, or (iii) any premium for insurance required by the terms of this contract to be maintained by Purchaser;

(b) Default, for a period of sixty (60) days after written notice thereof is given to Purchaser, 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 seizure or attachment thereof or thereon or a substantial, uninsured loss of any part of the Real Estate.

(d) Purchaser (i) institutes or consents to any proceedings in insolvency, or for the adjustment, liquidation, extension or composition or arrangement of debts or for any other relief under any insolvency law or laws relating to the relief or reorganization of debtors', (ii) files an answer admitting bankruptcy or insolvency or in any manner adjudged insolvent, or (iii) makes an assignment for the benefit of creditors or admits in writing inability to pay debts as they become due; provided however, this paragraph (d) shall not apply to any proceeding in bankruptcy.

(e) Any part of Real Estate or all or a substantial part of the property or assets of Purchaser is placed in the hands of any receiver, trustee or other officers or representatives of any court, or Purchaser consents, agrees or acquiesces to the appointment of any such receiver or trustee;

(f) Desertion or abandonment of the Real Estate, or any part thereof, by Purchaser;

(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 Purchaser's interest in this contract or Purchaser's interest in the Real Estate, or any part thereof, without Vendor's prior written consent.

In the event Purchaser deserts or abandons the Real Estate or commits any other willful breach of this contract which materially diminishes the security intended to be given to Vendor under and by virtue of this contract, then, it is expressly agreed by Purchaser that, unless purchaser shall have paid more than Fifty (50%) Percent of the Purchase Price, Vendor may, at Vendor's option, cancel this



contract and take possession of the Real Estate and remove Purchaser therefrom, or those holding or claiming under Purchaser without any demand and to the full extent permitted by applicable law. In the event of Vendor's cancellation upon such default by Purchaser, all rights and demands of Purchaser under this contract and in and to the Real Estate shall cease and terminate and Purchaser shall have no further right, title or interest, legal or equitable, in and to the Real Estate and Vendor shall have the right to retain all amounts paid by Purchaser toward the Purchase Price as a agreed payment for Purchaser's possession of the Real Estate prior to such default. Such retention shall not bar Vendor's right to recover damages for unlawful detention of the Real Estate after default, for any failure to pay taxes or insurance, for failure to maintain the Real Estate at any time for waste committed thereon or for any other damages suffered by Vendor, including reasonable attorneys' fees incurred by Vendor in enforcing any right hereunder or in removing any encumbrance on the Real Estate made or suffered by Purchaser.

All of Vendor's remedies shall be cumulative and not exclusive. Failure of Vendor to exercise any remedy at any time shall not operate as a waiver of the right of Vendor to exercise any remedy for the same or any subsequent default at any time thereafter.

12. **Additional Covenants and Representations of Vendor.** Upon payment by Purchaser for the Purchase Price in full, with all interest accrued thereon, and the performance by Purchaser of all covenants and conditions which by the terms of this contract are to be performed by Purchaser, Vendor agrees and covenants to convey the Real Estate to Purchaser by General Warranty Deed, subject only to easements and restrictions of record as of the date of this contract; to the rights of persons in possession; to the lien of all taxes and assessments payable by Purchaser hereunder; and to any other encumbrances which, by his contract, are to be paid by Purchaser.

13. **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 (a) actually served on the person to be notified, or (b) placed in an envelope directed to the person to be notified at the following address and deposited in the United States mail by certified or registered mail, postage prepaid.

(1) If to Vendor, at the address at which payments to Vendor are to be made.

(2) If to Purchaser, at :  
7800 Melton Road, Gary, Indiana 46403

Such addresses may be changed by either party by written advice as to the new address delivered to the other party as above provided.

Whenever consent is required of either party hereunder for the occurrence of any act, such consent shall not unreasonably be withheld.

14. **Recording.** This agreement may be recorded by Purchaser, at Purchaser's expense.

IN WITNESS WHEREOF, Vendor and Purchaser have executed this instrument on this 5th day of August, 1987.

Signature Barbara R. Divich

Printed T.W.W.P. Transport  
By: Wilbert E. Hinkle, Jr.  
Wilbert E. Hinkle, Jr.  
Individually

Printed Barbara R. Divich  
Signature Lola M. Kushner  
Printed Lola M. Kushner

By: Ruth Ann Helgren  
Ruth Ann Helgren  
Individually

Signature Attab J. Mindel  
Printed Attab J. Mindel, as Attorney-in-Fact for Charlene Fassa