

After recording return to:  
James W. Kniskern  
2703 Washington Blvd.  
Anacortes, WA 98221



201112300023  
Skagit County Auditor

12/30/2011 Page 1 of 8 10:52AM

GUARDIAN NORTHWEST TITLE CO.

**REAL ESTATE CONTRACT**

A102988

**KNISKERN / TYSON**

**1. PARTIES AND DATE.** This Contract is dated and entered into on December 29, 2011 by and between:

**SELLER:** James W. Kniskern and Teresa J. Kniskern, husband and wife as their community property estate.

**BUYER:** Terry L. Tyson, a married man as his separate property estate.

**2. SALE AND LEGAL DESCRIPTION.** Seller agrees to sell to Buyer and Buyer agrees to purchase from Seller the following described real estate in Skagit County, State of Washington (the "Property"):

**LEGAL DESCRIPTION:** Lot 4, Plat of Rock Ridge West Phase II, according to the plat thereof recorded December 2, 2004 under auditor's file No. 200412020087, Records of Skagit County, Washington.

**TAX PARCEL #:** P122378 4848-DDD-DDD-DDDD

**3. DISCLOSURES / ACKNOWLEDGEMENT / PROPERTY "AS-IS".**

(a) The Property is located adjacent to Anacortes Airport, a small regional facility. Buyer is aware and accepting of the fact that airport operations may generate

SKAGIT COUNTY WASHINGTON  
REAL ESTATE EXCISE TAX

20113982  
DEC 30 2011

Amount Paid \$ 3385.22  
By Skagit Co. Treasurer  
M6 Deputy

objectionable aircraft noise and that any future expansion of airport operations could increase such noise.

(b) Buyer has reviewed with the City of Anacortes Planning & Construction department concerning requirements for his intended development of the subject Property

(c) The Property was developed using loose fill material taken from an adjacent hillside. Development of the Rock Ridge properties was monitored by a licensed Civil Engineering firm, GeoEngineers. Various memos submitted by GeoEngineers describing fill procedures used in the Rock Ridge development are on file with the City of Anacortes Planning Department. Copies of three relevant reports have been provided to Buyer for his review prior to execution of this Contract.

(d) Buyer himself has engaged GeoEngineers to perform limited geotechnical tests ("bank tests") on the subject Property, and has also reviewed history of foundation excavation performed on the adjacent parcel (Lot 3) during construction of a residential dwelling on that adjacent parcel.

(e) Buyer's conclusions concerning suitability of the subject Property for his intended use have been made solely based on his personal inspection of the Property and reviews of the information described above.

(f) Buyer acknowledges and agrees that Seller makes no representations or warranties of any kind whatsoever regarding the Property and/or its suitability for Buyer's planned use; the Property is being sold "as-is". Buyer hereby accepts full responsibility for any costs, including without limitation all building permit requirements, required for Buyer's future development of the Property.

#### 4. PRICE / TERMS.

(a) **PRICE.** Buyer agrees to pay:

- One hundred eighty-nine thousand nine hundred dollars (\$189,900.00) as the total "Purchase Price";
- With thirty thousand dollars (US \$30,000.00) cash down payment at closing concurrent herewith; and
- Leaving one hundred fifty-nine thousand nine hundred dollars (\$159,900.00) as the amount financed by Seller and represented by this Contract as payable by Buyer to Seller hereunder (the "Financed Amount").

(b) **PAYMENT OF FINANCED AMOUNT.** Buyer agrees to pay the sum of one thousand dollars (\$1,000.00), or more at buyer's option, on or before the 1st day of February, 2011, and a like amount or more on or before the 1st day of each and every



calendar month thereafter for a period of two (2) years including interest from the date of this Contract at the rate of five percent (5%) per annum on the declining balance of the Financed Amount. In the event of prepayment(s): (i) the remaining amortization schedule shall be shortened accordingly rather than decreasing the monthly payment amount; and (ii) Buyer shall accompany any such prepayment(s) with a professionally prepared amortization schedule based on the revised Financed Amount; and

**(c) BALLOON PAYMENT.** *THE ENTIRE THEN-REMAINING BALANCE OF PRINCIPAL AND ACCRUED INTEREST ON THE FINANCED AMOUNT SHALL BE DUE AND PAYABLE IN FULL NOT LATER THAN FEBRUARY 1, 2014.*

**(d) APPLICATION / ADDRESS.** Payments shall be applied first to interest and then to principal. Payments shall be made at:

2703 Washington Blvd.  
Anacortes, WA 98221

**5. PAYMENTS ON CREATED OBLIGATION.** Buyer shall be totally responsible for all charges attributable to tests or other actions on the Property as permitted in by Seller hereunder, and Buyer's failure to pay the same in a timely manner shall constitute a default hereunder and entitle Seller to forfeit the Contract.

**6. OTHER.** There are no underlying mortgages or similar encumbrances on which Seller is making payments.

**7. OTHER RESTRICTIONS THE PROPERTY.** The Property is subject to other easements, plat covenants, restrictions and reservations as set forth in the title insurance report.

**8. FULFILLMENT DEED.** Upon payment of all amounts due Seller, Seller agrees to deliver to Buyer a Statutory Warranty Deed in fulfillment of this Contract. The covenants of warranty in said deed shall not apply to any encumbrances assumed by Buyer or to defects in title arising subsequent to the date of this Contract by, through or under persons other than Seller herein.

**9. LATE CHARGES.** If any payment on the Purchase Price is not made within ten (10) days after the date it is due, Buyer agrees to pay a late charge equal to five percent (5%) of the amount of such payment. Such late payment charge shall be in addition to all other remedies available to Seller and the first amounts received from Buyer after such late charges are due shall be applied to the late charges.

**10. NO ADVERSE EFFECT ON PRIOR ENCUMBRANCES.** Seller warrants that entry into this Contract will not cause in any prior encumbrance (a) a breach, (b) accelerated payments, or (c) an increased interest rate, since there are no such prior encumbrances.



**11. POSSESSION.** Buyer is entitled to possession of the Property from and after the date of this Contract.

**12. TAXES, ASSESSMENTS AND UTILITY LIENS.** Buyer agrees to pay by the date due all taxes and assessments becoming a lien against the Property after the date of this Contract. Buyer may in good faith contest any such taxes or assessments so long as no forfeiture or sale of the Property is threatened as the result of such contest. Buyer agrees to pay when due any utility charge which may become liens superior to Seller's interest under this Contract.

**13. INSURANCE.** Buyer agrees to keep all buildings now or hereafter erected on the Property described herein continuously insured under liability policies in an amount not less than one million dollars (\$1,000,000) and to name Seller as an additional insured thereon; Buyer shall provide Seller with satisfactory evidence of such coverage not less than annually.

**14. NONPAYMENT OF TAXES, INSURANCE AND UTILITIES CONSTITUTING LIENS.** If Buyer fails to pay taxes or assessments, insurance premiums or utility charges constituting liens prior to Seller's interest under this Contract, Seller may pay such items and Buyer shall forthwith pay Seller the amount thereof plus a late charge of five percent (5%) of the amount thereof plus any costs and attorney's fees incurred in connection with making such payments. If Buyer fails to pay Seller within thirty (30) days of demand, then Seller may initiate forfeiture action hereunder.

**15. CONDITION OF PROPERTY.** Buyer accepts the Property in its present condition "as-is" and acknowledges that Seller, Seller's agents and subagents have made no representation or warranties concerning the physical condition of the Property or the uses to which it may be put other than as set forth herein. Buyer agrees to maintain the Property in such condition as complies with all applicable laws.

**16. RISK OF LOSS.** Buyer shall bear the risk of loss for destruction or condemnation of the Property. Any such loss shall not relieve Buyer from any of Buyer's obligations pursuant to this Contract.

**17. WASTE.** Buyer shall keep the Property in good repair and shall not commit or suffer waste or willful damage to or destruction of the Property. Buyer shall not remove commercial timber without the prior written consent of Seller.

**18. AGRICULTURAL USE.** If the Property is to be used principally for agricultural purposes, buyer agrees to conduct farm and livestock operations in accordance with good husbandry practices. In the event a forfeiture action is instituted hereunder, Buyer consents to Seller's entry on the premises to take any reasonable action to conserve soil, crops, trees and livestock.



19. **CONDEMNATION.** Seller and Buyer may each appear as owners of an interest in the Property in any action concerning condemnation of any part of the Property. Buyer may within 30 days after condemnation and removal of improvements, negotiate a contract to substantially restore the premises to their condition before the removal. If the condemnation proceeds are sufficient to pay the contract price for restoration or if Buyer deposits in escrow any deficiency with instructions to apply the funds on the restoration contract, then the Property shall be restored unless underlying encumbrances provide otherwise. Otherwise, proceeds of the award shall be applied in payment of the balance due on the Financed Amount, as Seller may direct.

20. **DEFAULT.** If Buyer fails to observe or perform any term, covenant, or condition of this Contract, Seller may:

- (a) **Suit for Installments.** Sue for any delinquent periodic payment;
- (b) **Specific Performance.** Sue for specific performance of any Buyer's obligations pursuant to this Contract;
- (c) **Forfeit Buyer's Interest.** Forfeit this Contract pursuant to the Revised Code of Washington as it is presently enacted and may hereafter be amended. The effect of such forfeiture includes: (i) all right, title and interest in the Property of Buyer and all persons claiming through Buyer shall be terminated; (ii) Buyer's rights under this Contract shall be cancelled; (iii) all sums previously paid under the Contract shall belong to and be retained by the Seller or other person to whom paid and entitled thereto; (iv) all improvements made to and on the Property shall belong to Seller; and (v) Buyer shall be required to surrender possession of the Property and improvements to Seller ten (10) days after the forfeiture; or
- (d) **Acceleration of Balance Due.** Give Buyer notice demanding payment of said delinquencies and payment of a late charge of five percent (5%) of the amount of such delinquent payments and payment of Seller's reasonable attorney's fees and costs incurred for services in preparing and sending such Notice and stating that if payment pursuant to said Notice is not received within thirty (30) days following said Notice, then the entire balance owing, including interest, will become immediately due and payable. Seller may thereupon institute suit for payment of such balance, interest, late charge and reasonable attorneys' fees and costs; or
- (e) **Judicial Foreclosure.** Sue to foreclose this Contract as a mortgage, in which event Buyer may be liable for a deficiency.
- (f) **Default Interest.** In addition to late charges, any obligations payable by Buyer hereunder including without limitation the Financed Amount shall incur default interest at the higher of twelve percent (12%) per annum or the highest amount allowed by law until paid in full.



**21. RECEIVER.** If Seller has instituted any proceedings specified in Section 20 above and Buyer is receiving rental or other income from the Property, Buyer agrees that the appointment of a receiver for the Property is necessary to protect Seller's interests.

**22. BUYER'S REMEDY FOR SELLER'S DEFAULT.** If Seller fails to timely observe or perform any term, covenant or condition of this Contract, Buyer may, after 30 days notice to Seller, institute suit for damages or specific performance unless the breaches designated in said notice are cured.

**23. NON-WAIVER.** Failure of either party to insist upon strict performance of the other party's obligations hereunder shall not be construed as a waiver of strict performance thereafter of all of the other party's obligations hereunder and shall not prejudice any remedies as provided herein.

**24. ATTORNEYS' FEES AND COSTS.** In the event of any breach of this Contract, the party responsible for the breach agrees to pay reasonable attorneys' fees and costs, including costs of service of notices and title searches, incurred by the other party. The substantially prevailing party in any suit instituted arising out of this Contract and in any forfeiture proceedings arising out of this Contract shall be entitled to recover its reasonable attorneys' fees and costs incurred in such suit or proceedings from the other party.

**25. NOTICES.** All notices, requests, demands, and other communications with respect hereto shall be in writing sent either by national commercial overnight delivery service, or by certified mail, return receipt requested, to the party's address set forth in this Section below. Any such notice shall be deemed effective when signed for by anyone at the delivery address. Any such correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified shall be deemed effective as of the first date that said notice was refused, unclaimed, or deemed undeliverable by the postal authorities, messenger, or overnight delivery service. Any party may change its address for purposes of this Section by giving the other parties notice thereof in that same manner:

TO BUYER AT: 5212 - 233rd Place NW, Arlington, WA 98223

TO SELLER AT: 2703 Washington Blvd., Anacortes, WA 98221

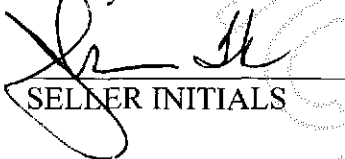
**26. TIME FOR PERFORMANCE.** Time is of the essence in performance of any obligations pursuant to this Contract.

**27. SUCCESSORS AND ASSIGNS.** Subject to any restrictions against assignment, the provisions of this Contract shall be binding on the heirs, successors and assigns of Seller and Buyer.



**28. NO ALTERATIONS OR IMPROVEMENTS.** *Buyer shall not undertake or authorize any improvements, modifications, construction or site preparation activities on the Property until the Financed Amount has been paid in full.*

**29. DUE ON SALE.** If Buyer, without consent of Seller, (a) conveys, (b) sells, (c) leases, (d) assigns, (e) contracts to convey, sell, lease or assign, (f) grants an option to buy the Property, (g) permits a forfeiture or foreclosure or trustee or sheriff's sale of any of Buyer's interest in the Property or this Contract, then Seller may at any time thereafter declare the entire remaining Financed Amount due and payable immediately. A transfer to a spouse or child of Buyer, a transfer incident to a marriage dissolution or condemnation, or a transfer by inheritance will not enable Seller to take any action pursuant to this Section; provided the transferee agrees in writing that the provisions of this Section apply to any subsequent transaction involving the Property entered into by the transferee.

  
SELLER INITIALS

  
BUYER INITIALS

**30. PERIODIC PAYMENTS ON TAXES AND INSURANCE.** In addition to the periodic payments on the Financed Amount, Buyer agrees to pay Seller such portion of the real estate taxes and assessments and fire insurance premium as will approximately total the amount due during the current year based on Seller's reasonable estimate. The payments during the current year shall be \$ \_\_\_\_\_ per \_\_\_\_\_. Such "reserve" payments from Buyer shall not accrue interest. Seller shall pay when due all real estate taxes and insurance premiums, if any, and debit the amounts so paid to the reserve account. Buyer and Seller shall adjust the reserve account in April of each year to reflect excess or deficit balances and changed costs. Buyer agrees to bring the reserve account balance to a minimum of ten dollars (\$10) at the time of adjustment.

SELLER INITIALS:

\_\_\_\_\_  
\_\_\_\_\_

BUYER INITIALS

\_\_\_\_\_

**33. ADDENDA.** Any addenda attached hereto are a part of this Contract.

**34. ENTIRE AGREEMENT.** This Contract constitutes the entire agreement of the parties with respect to the Property and supercedes all prior agreements and understandings, written or oral. This Contract may be amended only in writing executed by both Seller and Buyer.

IN WITNESS WHEREOF, the parties have executed this Contract the day and year first above

