

CONTRACT FOR PURCHASE AND SALE

This is a legally binding contract when signed by both parties. Consult a professional before signing if not fully understood!

PARTIES: \_\_\_\_\_, as "Seller" of \_\_\_\_\_, Phone: \_\_\_\_\_ and \_\_\_\_\_ as "Buyer" of \_\_\_\_\_, Phone: \_\_\_\_\_, hereby agree that the Seller shall sell and Buyer shall buy the

I. DESCRIPTION:

- a) Legal description of real estate ("Property") located in \_\_\_\_\_ County, \_\_\_\_\_ State.
b) Street address, if any, of the Property being conveyed is:
c) Personal property including all buildings and improvements on the property and all right, title and interest of Seller in and to adjacent streets, roads, alleys and rights-of-way, and:

II. PURCHASE PRICE to be paid by buyer for the above described property as follows;

PAYMENT:

- a) Cash Deposit(s) to be held in escrow by \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ and promissory note to be held in same escrow as additional earnest to show Buyer's intent in the amount of \$ \_\_\_\_\_
b) Subject to assumption of Mortgage in favor of \_\_\_\_\_ bearing interest at \_\_\_\_\_% per annum and payable as to principal and interest \$ \_\_\_\_\_ per month, having an approximate present principal balance of \$ \_\_\_\_\_, with \_\_\_\_\_ months left till end of terms.
c) Purchase money mortgage and note bearing interest at \_\_\_\_\_% on terms set forth herein below, in the principal amount of \$ \_\_\_\_\_, with payments of \_\_\_\_\_ per month for \_\_\_\_\_ months.
d) Other: \_\_\_\_\_ \$ \_\_\_\_\_
e) Other sum due seller at closing subject to adjustments and prorations \$ \_\_\_\_\_

TOTAL PURCHASE PRICE \$ \_\_\_\_\_

- f) All funds held in escrow shall be placed in an interest bearing account at the direction of Buyer, with interest accruing to the benefit of Buyer and either applied toward the purchase price at closing or returned to Buyer in the event and for any reason the transaction does not close.
g) Apportionment of Purchase Price and Deed; Land \$ \_\_\_\_\_ Main Structure \$ \_\_\_\_\_ Other \$ \_\_\_\_\_

III. FINANCING: If the purchase price or any part thereof is to be financed by a third party loan, this Contract for Sale and Purchase ("Contract"), is conditioned upon the Buyer obtaining a firm commitment for said loan within \_\_\_\_\_ days from the date hereof, at an interest rate not to exceed \_\_\_\_\_ percent (\_\_\_\_%); of \_\_\_\_\_ years; and in the principal amount of \$ \_\_\_\_\_ \_\_\_\_\_. Buyer agrees to make application for, and to use reasonable diligence to obtain said loan. Should Buyer fail to obtain same or to waive Buyer's rights hereunder within said time, \_\_\_ Buyer may cancel Contract. \_\_\_ Contract will continue under terms set forth on Addendum.

IV. TITLE EVIDENCE: Within twenty (20) days from the date of Contract, Seller shall, at his expense, deliver to Buyer or his attorney, in accordance with Paragraph XI, a title insurance commitment with fee owner's title policy premium to be paid by Seller at closing.

V. TIME FOR ACCEPTANCE AND EFFECTIVE DATE: If this offer is not executed by both of the parties hereto on or before \_\_\_\_\_, the aforesaid deposit(s) shall be, at the option of the Buyer, returned to him and this offer shall thereafter be null and void. The date of Contract ("Effective Date") shall be the date when the last one of the Seller and Buyer has signed this offer.

VI. CLOSING DATE: This transaction shall be closed and the deed and other closing papers delivered on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, unless extended by other provisions of Contract, or by written agreement of the Parties.

VII. RESTRICTIONS, EASEMENTS, LIMITATIONS: The Buyer shall take title subject only to: Zoning, restrictions, prohibitions and other requirements imposed by governmental authority; Restrictions and matters appearing on the plat or otherwise common to the subdivision; Public utility easements of record; Taxes for year of closing and subsequent years, assumed mortgages and purchase money mortgages, if any; other: \_\_\_\_\_ provided, however, that none of the foregoing shall prevent use of the property for the purpose of \_\_\_\_\_.

VIII. OCCUPANCY: Seller represents that there are no parties in occupancy other than Seller, but if Property is intended to be rented or occupied beyond closing, the fact and terms thereof shall be stated herein, and the tenant(s) shall be disclosed pursuant to Paragraph XVII. Seller agrees to deliver occupancy of Property at time of closing unless otherwise specified below.

IX. ASSIGNABILITY: Buyer may assign this Contract.

X. TYPEWRITTEN OR HANDWRITTEN PROVISIONS: Typewritten or handwritten provisions inserted herein or attached hereto as Addenda shall control all printed provisions in conflict therewith.

XI. EVIDENCE OF TITLE: Within twenty (20) days from the date hereof, Seller, at Seller's sole cost and expense, shall cause a title insurance company mutually acceptable to the Parties ("Title Company") to issue and deliver to Buyer an ALTA Form B title commitment ("Title Commitment") accompanied by one copy of all documents affecting the Property, and which constitute exceptions to the Title Commitment. Buyer shall give Seller written notice on or before twenty (20) days from the date of receipt of the Title Commitment, if the condition of title as set forth in such Title Commitment and survey is not satisfactory in Buyer's sole discretion. In the event that the condition of title is not acceptable, Buyer shall state which exceptions to the Title Commitment are unacceptable. Seller shall, at its sole cost and expense promptly undertake and use its best efforts to eliminate or modify all unacceptable matters to the reasonable satisfaction of Buyer. In the event Seller is unable with the exercise of due diligence to satisfy said objections within thirty (30) days after said notice, Buyer may, at its option: (i) extend the time period for Seller to satisfy said objections, (ii) accept title subject to the objections raised by Buyer, without an adjustment in the purchase price, in which event said objections shall be deemed to be waived for all purposes, or (iii) rescind this Agreement, whereupon the deposit described herein shall be returned to Buyer and this Agreement shall be of no further force and effect.

XII. EXISTING MORTGAGES TO BE ASSUMED: Seller shall furnish to Buyer within twenty (20) days from execution hereof a statement from all mortgagee(s) setting forth principal balance, method of payment, interest rate and whether the mortgage(s) is in good standing. If a mortgage requires approval of the Buyer by the mortgagee in order to avoid default, or for assumption by the Buyer of said mortgage, and:

- a) The mortgagee does not approve the Buyer, the Buyer may rescind the contract, or
- b) The mortgagee requires an increase in the interest rate or charges a fee for any reason in excess of \$500.00, the Buyer may rescind the Contract unless Seller elects to pay such increase or excess. Seller and Buyer each shall pay 50% of any such fee. Buyer shall use reasonable diligence to obtain approval. The amount of any escrow deposits held by mortgagee shall be credited to Seller.

XIII. PURCHASE MONEY MORTGAGES: The purchase money note and mortgage, if any, shall provide for a thirty (30) day grace period in the event of default if it is a first mortgage and a 15 day grace period in the event of default if a second mortgage; shall provide for right of prepayment in whole or in part without penalty; shall be assumable and shall not provide for acceleration or interest adjustment in event of resale of the Property. Said mortgage shall require the owner of the encumbered Property to keep all prior liens and encumbrances in good standing.

XIV. CURRENT SURVEY: Within fifteen (15) days from the date hereof, Seller, at Seller's sole cost and expense, shall furnish a current survey of the Property prepared and certified by a duly registered Land Surveyor. The survey as to the Property shall:

- a) Set forth an accurate legal description; and

- b) Locate all existing easements and rights-of-way (setting forth the book and page number of the recorded instruments creating the same), alleys, streets, and
- c) Show any encroachments; and
- d) Show all existing improvements (such as buildings, power lines, fences, etc.); and
- e) Show all dedicated public streets provided access and whether such access is paved to the property line; and
- f) Show the location of any easements necessary for the furnishing of off-site improvements; and
- g) Be certified to the Seller, the Buyer, the Title Company and any lender that may be involved in the transaction.

In the event the survey or the recertification thereof shows any encroachments of any improvements upon, from, or onto the Property, or on or between any building set-back line, a property line, or any easement, except those acceptable to Buyer, in Buyer's sole discretion, said encroachment shall be treated in the same manner as a title defect under the procedure set forth of notice thereof with

XV. TERMITES: The Buyer, within time allowed for delivery of evidence of title and examination thereof, or no later than ten (10) days prior to closing, whichever date occurs last, may have the improvements inspected at \_\_\_Buyer's \_\_\_Seller's expense by a certified pest control operator to determine whether there is any visible active termite infestation or visible existing damage from termite infestation in the improvements. If Buyer is informed of either or both of the foregoing, Buyer will have ten (10) days from date of notice thereof within which to have all damages, whether visible or not, inspected and estimated by a licensed building or general contractor. Seller shall pay valid costs for treatment and repair of all damage up to 1 1/2% of Purchase Price. Should such costs exceed that amount, Buyer shall have the option of canceling contract within five (5) days after receipt of contractor's repair estimate by giving written notice to Seller, or Buyer may elect to proceed with the transaction, in which event Buyer shall receive a credit at closing of an amount equal to 1 1/2% of said Purchase Price. "Termites" shall be deemed to include all wood destroying organisms.

XVI. INGRESS AND EGRESS: Seller warrants that there is ingress and egress to the Property sufficient for the intended use as described in Paragraph VII hereof the title to which is in accordance with Paragraph XI above.

XVII. LEASES: Seller shall, not less than fifteen (15) days prior to closing, furnish to Buyer copies of all written leases and estoppel letters from each tenant (if any) specifying the nature and duration of said tenant's occupancy, rental rates and advanced rent and security deposits paid by tenant. In the event Seller is unable to obtain such letter from each tenant, the same information shall be furnished by Seller to Buyer within said time period in the form of a Seller's affidavit, and Buyer may thereafter contact tenants to confirm such information. Seller shall deliver and assign all original leases to Buyer at closing.

XVIII. LIENS: Seller shall, both as to the Property and personalty being sold hereunder, furnish to Buyer at time of closing an affidavit attesting to the absence, unless otherwise provided for herein, of any financing statements, claims of lien or potential liens known to Seller and further attesting that there have been no improvements to the Property for ninety (90) days immediately preceding date of closing. If the property has been improved within said time, Seller shall deliver releases or waivers of all mechanic's liens, executed by general contractors, subcontractors, suppliers, and material men, in addition to Seller's lien affidavit setting forth the names of all such general contractors, subcontractors, suppliers and material men and further reciting that, in fact, all bills for work to the Property which could serve as a basis for a mechanic's lien have been paid or will be paid at closing.

XIX. PLACE OF CLOSING: Closing shall be held in the county wherein the Property is located, at the office of the attorney or other closing agent designated by Buyer; provided, however, that if a portion of the purchase price is to be derived from an institutional mortgagee, the requirements of said mortgagee as to time of day, place and procedures for closing, and for disbursement of mortgage process, shall control, anything in this contract to the contrary notwithstanding.

XX. TIME: Time is of the essence of this Contract. Any reference herein to time periods of less than six (6) days shall in the computation thereof, exclude Saturdays, Sundays and legal holidays, and any time period provided for herein which shall end on a Saturday, Sunday or legal holiday shall extend to 5:00 p.m. of the next business day.

XXI. DOCUMENTS FOR CLOSING: Seller shall furnish deed, closing statement, mechanic's lien affidavit, assignments of leases, and any corrective instruments that may be required in connection with perfecting the title. Buyer shall furnish mortgage, mortgage note, security agreement, and financing statement.

XXII. EXPENSES: State documentary stamps which are required to be affixed to the instrument of conveyance, intangible tax on and recording of purchase money mortgage to Seller, and cost of recording any corrective instruments shall be paid by Seller. Documentary stamps to be affixed to the note or notes secured by the purchase money mortgage, cost of recording the deed and financing statements shall be paid by Buyer.

- a. If needed an appraisal shall be done at the expense of the \_\_\_Buyer \_\_\_Seller.
- b. Any repairs required by FHA or VA shall be at the expense of the \_\_\_Buyer \_\_\_Seller.
- c. Any other inspections required by law will be at the expense of the \_\_\_Buyer \_\_\_Seller.

XXIII. PRORATION OF TAXES: Taxes for the year of the closing shall be prorated to the date of closing. If the closing shall occur before the tax rate is fixed for the then current year, the apportionment of taxes shall be upon the basis of the tax rate of the preceding year applied to the latest assessed valuation. Subsequent to the closing, when the tax rate is fixed for the year in which the closing occurs, Seller and Buyer agree to adjust the proration of taxes and, if necessary, to refund or pay, as the case may be, an amount necessary to effect such adjustments. This provision shall survive closing.

XXIV. PERSONAL PROPERTY INSPECTION, REPAIR: Seller warrants that all major appliances, heating, cooling, electrical, plumbing systems, and machinery are in working condition as of six (6) days prior to closing. Buyer may, at his expense, have inspections made of said items by licensed persons dealing in the repair and maintenance thereof, and shall report in writing to Seller such items as found not in working condition prior to taking of possession thereof, or six (6) days prior to closing, whichever is first. Unless Buyer reports failures within said period, he shall be deemed to have waived Seller's warranty as to failures not reported. Valid reported failures shall be corrected at Seller's cost with funds therefore escrowed at closing. Seller agrees to provide access for inspection upon reasonable notice.

XXV. RISK OF LOSS: If the improvements are damaged by fire or other casualty prior to closing, and the costs of restoring same does not exceed 3% of the assessed valuation of the improvements so damaged, cost of restoration shall be an obligation of the Seller and closing shall proceed pursuant to the terms of Contract with costs therefore escrowed at closing. In the event the cost of repair or restoration exceeds 3% of the assessed valuation of the improvements so damaged, Buyer shall have the option of either taking the Property as is, together with either the said 3% or any insurance proceeds payable by virtue of such loss or damage, or of canceling the Contract and receiving return of deposit(s) made hereunder.

XXVI. MAINTENANCE: Notwithstanding the provisions of Paragraph XXIV, between Effective Date and Closing Date, all personal property on the premises and real property, including lawn, shrubbery and pool, if any, shall be maintained by Seller in the condition they existed as of Effective Date, ordinary wear and tear excepted, and Buyer or Buyer's designee will be permitted access for inspection prior to closing in order to confirm compliance with this standard.

XXVII. PROCEEDS OF SALE AND CLOSING PROCEDURE: The deed shall be recorded upon clearance of funds and evidence of title continued at Buyer's expense, to show title in Buyer, without any encumbrances or change which would render Seller's title unmarketable from the date of the last evidence, and the cash proceeds of sale shall be held in escrow by Seller's attorney or by such other escrow agent as may be mutually agreed upon for a period of not longer than five (5) days from and after closing date. If Seller's title is rendered unmarketable, Buyer shall within said five (5) day period, notify Seller in writing of the defect and Seller shall have thirty (30) days from date of receipt of such notification to cure said defect. In the event Seller fails to timely cure said defect, all monies paid hereunder shall, upon written demand therefore and within five (5) days thereafter, be returned to Buyer and, simultaneously with such repayment, Buyer shall vacate the Property and reconvey same to the Seller by special warranty deed. In the event Buyer fails to make timely demand for refund, he shall take title as is, waiving all rights against Seller as to such intervening defect except as may be available to Buyer by virtue of warranties, if any, contained in deed.

XXVIII. ESCROW: Any escrow agent receiving funds is authorized and agrees by acceptance thereof to promptly deposit and to hold same in escrow and to disburse same subject to clearance thereof in accordance with terms and conditions of Contract. Failure of clearance of funds shall not excuse performance by the Buyer.

XXIX. ATTORNEY FEES AND COSTS: In connection with any litigation including appellate proceedings arising out of this Contract, the prevailing party shall be entitled to recover reasonable attorney's fees and costs.

XXX. (a) **DEFAULT BY SELLER:** In the event that Seller should fail to consummate the transaction contemplated herein for any reason, except Buyer's default; (i) Buyer may enforce specific performance of this Agreement in a court of competent jurisdiction and in such action shall have the right to recover damages suffered by Buyer by reason of the delay in the acquisition of the Property, or (ii) may bring suit for damages for breach of this Agreement, in which event, the deposit made hereunder shall be forthwith returned to Buyer, or (iii) declare a default, demand and receive the return of the deposit. All rights, powers, options or remedies afforded to Buyer either hereunder or by law shall be cumulative and not alternative and the exercise of one right, power, option or remedy shall not bar other rights, powers, options or remedies allowed herein or by law.

XXX. (b) **DEFAULT BY BUYER:** In the event Buyer should fail to consummate the transaction contemplated herein for any reason, except default by Seller or the failure of Seller to satisfy any of the conditions to Buyer's obligations, as set forth herein, Seller shall be entitled to retain the earnest money deposit, such sum being agreed upon as liquidated damages for the failure of Buyer to perform the duties and obligations imposed upon it by the terms and provisions of this Agreement and because of the difficulty, inconvenience and uncertainty of ascertaining actual damages, and no other damages, rights or remedies shall in any case be collectible, enforceable or available to Seller other than as provided in this Section, and Seller agrees to accept and take said deposit as Seller's total damages and relief hereunder in such event.

XXXI. **MEMORANDUM OF CONTRACT RECORDABLE, PERSONS BOUND AND NOTICE:** Upon the expiration of the inspection period described in paragraph XXXVI, if Buyer has elected to proceed with purchase of the property, the parties shall cause to be recorded, at Buyer's option and expense, in the public records of the county in which the property is located, an executed Memorandum of Contract as attached hereto. This Contract shall bind and inure to the benefit of the Parties hereto and their successors in interest. Whenever the context permits, singular shall include plural and one gender shall include all. Notice given by or to the attorney for either party shall be as effective as if given by or to said party.

XXXII. **PRORATIONS AND INSURANCE:** Taxes, assessments, rent, interest, insurance and other expenses and revenue of the Property shall be prorated as of date of closing. Buyer shall have the option of taking over any existing policies of insurance on the Property, if assumable, in which event premiums shall be prorated. The cash at closing shall be increased or decreased as may be required by said prorations. All references in Contract to prorations as of date of closing will be deemed "date of occupancy" if occupancy occurs prior to closing, unless otherwise provided for herein.

XXXIII. **CONVEYANCE:** Seller shall convey title to the Property by statutory warranty deed subject only to matters contained in Paragraph VII hereof and those otherwise accepted by Buyer. Personal property shall, at the request of Buyer, be conveyed by an absolute bill of sale with warranty of title, subject to such liens as may be otherwise provided for herein.

XXXIV. **UTILITIES:** Seller shall, at no expense to Seller, actively work with Buyer to assist Buyer in obtaining electricity, water, sewage, storm drainage, and other utility services for development of the Property.

a) Seller will transfer all utility deposits where possible to Buyer upon closing? \_\_\_ Yes \_\_\_ No

XXXV. **ENGINEERING PLANS AND STUDIES:** Upon the execution hereof, Seller shall furnish to Buyer all engineering plans, drawings, surveys, artist's renderings and economic and financial studies which Seller has, if any, relating to the Property, and all such information may be used by Buyer in such manner as it desires; provided that in the event Buyer fails to purchase the Property for any reason other than Seller's default, all such information shall be returned to Seller together with any information that Purchaser may have compiled with respect to the Property.

XXXVI. **INSPECTION OF PROPERTY:** Buyer shall have sixty (60) days from the date hereof to determine the elevation, grade, and topography of the Property and to conduct engineering and soil boring tests as the Buyer deems necessary in order to determine the usability of the Property. Buyer may in its sole and absolute discretion, give notice of termination of this Agreement at any time prior to the expiration of the sixty (60) day inspection period, and upon such termination, all deposits held in escrow shall be returned to Buyer.

XXXVII. **PENDING LITIGATION:** Seller warrants and represents that there are no legal actions, suits or other legal or administrative proceedings, including cases, pending or threatened or similar proceedings affecting the Property or any portion thereof, nor has Seller knowledge that any such action is presently contemplated which might or does affect the conveyance contemplated hereunder.

XXXVIII. **SURVIVAL OF REPRESENTATIONS AND WARRANTIES:** The representations and warranties set forth in this Contract shall be continuing and shall be true and correct on and as of the closing date with the same force and effect as if made at that

time, and all of such representations and warranties shall survive the closing and shall not be affected by any investigation, verification or approval by any party hereto or by anyone on behalf of any party hereto.

XXXIX. ACQUIRING APPROVALS: The obligation of Buyer to close is conditioned upon Buyer's having acquired all the necessary approvals and permits to use the property for\_\_\_\_\_.

XL. OTHER AGREEMENTS: No prior or present agreements or representations shall be binding upon any of the Parties hereto unless incorporated in this Contract. No modification or change in this Contract shall be valid or binding upon the Parties unless in writing, executed by the Parties to be bound thereby.

XLI. SPECIAL CLAUSES:

\_\_\_\_\_

Witnesses: Executed by Buyer on: \_\_\_\_\_

\_\_\_\_\_ Buyer

\_\_\_\_\_

\_\_\_\_\_ Buyer

\_\_\_\_\_

Executed by Seller on: \_\_\_\_\_

\_\_\_\_\_ Seller

\_\_\_\_\_

\_\_\_\_\_ Seller

\_\_\_\_\_

Deposit(s) under II (a) received; if check, subject to clearance, and terms hereof are accepted.

By: \_\_\_\_\_ (Escrow Agent)

BROKERAGE FEE: \_\_\_Seller \_\_\_Buyer agrees to pay the registered real estate Broker named below compensation in the total amount of \_\_\_\_\_ percent (\_\_\_\_ %) of gross purchase price of \$\_\_\_\_\_ for his services in accordance to the contract in affect between the two parties.

\_\_\_\_\_ Broker Seller

\_\_\_\_\_ Seller

\_\_\_\_\_ Buyer