

PURCHASE AND SALE AGREEMENT

This PURCHASE AND SALE AGREEMENT (the "**Contract**") is entered into by and between _____ and/or assignee, with an address of _____, Telephone (____) ____ - ____ ("**Buyer**"); and _____ with a taxable mailing address of _____ ("**Seller**" whether one or more).

1. OPENING. The "**Opening**" will occur upon the date this Contract is mutually executed and acknowledged by Escrow Agent.

2. PROPERTY. Seller hereby agrees to sell and Buyer hereby agrees to buy the real property with all improvements, fixtures and appurtenances thereon or incidental thereto described below as: _____ with an APN # of _____ (the "**Property**").

3. PURCHASE PRICE.

A. The **purchase price** to be paid at COE (defined below) by Buyer for the Property (the "**Purchase Price**") is \$ _____. The **Purchase Price** shall be paid to Seller as follows:

1. An earnest money deposit of \$ _____.
2. The sum of \$ _____ at COE.
3. **[OPTIONAL PROVISION: DELETE THIS IF THE PROPERTY IS VACANT]** If Seller has not vacated the Property by COE, COE will be extended until such time as Seller has vacated the Property and exclusive physical possession of the Property may be delivered to Buyer. In such event, a \$100 daily fee will be payable by Seller to Buyer for each day Seller remains in possession of the Property from and after the original date of COE until COE occurs. The balance of the Purchase Price shall be paid to Seller after the Property is vacated and the keys are delivered to the Buyer. The sum of any such \$100 daily fee will, at Buyer's option, either be credited against the Purchase Price or paid to Buyer at COE.

B. If the escrow closes, the earnest money deposit in escrow shall be credited against the Purchase Price. If this Contract is cancelled by Buyer pursuant to the terms of this Contract, Buyer becomes entitled to a return of the earnest money deposit and Escrow Agent shall immediately refund to Buyer all earnest money deposits then in escrow together with all interest thereon.

C. Escrow Agent is instructed to deposit all such payments in a federally-insured money market or other similar account, subject to immediate withdrawal, at a bank or savings and loan institution located in _____, _____. Interest earned on the earnest money deposits shall be retained in the escrow until COE, at which time such interest shall be paid to Seller, in addition to the Purchase Price; **provided, however**, that if this Contract is cancelled, the interest shall be paid to the party entitled to receive the earnest money.

4. ESCROW AGENT. Seller and Buyer hereby employ _____, Phone (____) ____ - _____ (the "**Escrow Agent**") to act as escrow agent for this transaction. This Contract constitutes the escrow instructions to Escrow Agent. Should Escrow Agent require execution of its standard form printed escrow instructions, Buyer and Seller agree to execute same; however, such printed escrow instructions shall be construed as applying only to Escrow Agent's employment, and if there are conflicts between the terms of this Contract and the terms of the printed escrow instructions, the terms of this Contract shall control. Escrow Agent, if necessary, is hereby authorized and instructed to prepare and execute on behalf of Buyer and Seller of Affidavit of Property Value as required by _____ law, using the **Purchase Price** for the established value of the Property.

5. CLOSE OF ESCROW. The closing date shall occur on or about _____ (the "**COE**"). COE shall occur when exclusive physical possession is given to Buyer and the deed is recorded at the appropriate county recorder's office. Buyer and Seller shall comply with all terms and conditions of this Contract, execute and deliver to Escrow Agent all closing documents and perform all other acts necessary for COE to occur. Buyer shall have the right to approve the property's title status before COE. Title to the Property shall be conveyed to Buyer at COE by a **[USE THIS IF BUYER IS NOT ASSUMING FINANCING]** General Warranty Deed or

equivalent warranty deed used in the local jurisdiction. **[USE THIS IF BUYER IS ASSUMING FINANCING]**
Quit Claim Deed. Buyer shall be provided at Seller's expense an ALTA Homeowner's Title Insurance Policy, or if not available, an ALTA Residential Title Insurance Policy or, if not available, a Standard Owner's Title Insurance Policy, showing title vested in Buyer. Buyer shall take title as determined by Buyer before COE.

6. PROPERTY TURNOVER. **[USE THIS SENTENCE IF THE PROPERTY IS OCCUPIED]** Seller will provide Buyer with keys to the Property and vacate the Property by 12:00 a.m. on the day of COE. **[USE THIS SENTENCE IF THE PROPERTY IS VACANT]** Seller will provide Buyer with the keys to the Property by 12:00 a.m. on the day of COE. **[BE SURE TO DELETE THE SENTENCE YOU DIDN'T USE]**

7. SELLER'S DELIVERIES. Seller shall deliver the following to Buyer within five days after Opening: (a) a written five-year insurance claims history regarding the Property (or a claims history for the length of time Seller has owned the Property if less than five years) from Seller's insurance company; (b) if the Property is located in an unincorporated area of the county, and five or fewer parcels of property other than subdivided property are being transferred, a completed Affidavit of Disclosure in the form required by law; (c) any other disclosures to be made by Seller pursuant to applicable law; (d) any leases of the Property; (e) a certified rent roll (which Seller shall update at least five days before COE); (f) evidence of security deposits on hand, if any; and (g) a Commitment for Title Insurance together with complete and legible copies of all documents that will remain as exceptions to Buyer's policy of Title Insurance.

8. INSPECTION PERIOD. Buyer's obligations to close this transaction are subject to the satisfaction of the following conditions on or before 24 hours before COE: (a) Buyer is satisfied with the status of title to the Property as disclosed by the title commitment provided to Buyer; and (b) Buyer is satisfied with Buyer's investigations and inspections of the Property and with the results of Buyer's physical inspection of the Property, including all electrical, plumbing, mechanical, heating and air conditioning equipment and all furnishings, furniture, equipment, appliances and personal property to be conveyed to Buyer. **[USE THIS IF THE PROPERTY IS LEASED. IF NOT, DELETE IT.]** Additionally, if the Property is leased, Buyer's obligation to close this transaction will be conditioned upon Buyer's approval of the applicable lease(s) and tenant(s), and Buyer reserves the right to interview any such tenant(s) and to require Seller to deliver an estoppel certificate from such tenant(s) reasonably acceptable to Buyer, dated no later than five days before COE. **[USE THIS SENTENCE IF BUYER'S INSPECTION PERIOD RUNS THROUGH CLOSING.]** In that regard, Buyer shall have until the business day before COE (the "Inspection Period"), during which time Buyer will have the absolute right to cancel this Contract for any reason whatsoever, in Buyer's sole and absolute discretion. **[USE THIS SENTENCE IF THERE IS A STATED INSPECTION PERIOD.]** In that regard, Buyer shall have until the 10th business day after the Opening (the "Inspection Period"), during which time Buyer will have the absolute right to cancel this Contract for any reason whatsoever, in Buyer's sole and absolute discretion. Upon such cancellation, Buyer shall be entitled to a return of all earnest money deposits together with all interest earned thereon. Unless Buyer gives written notice of cancellation before the expiration of the Inspection Period, then Buyer will be deemed to have elected not to cancel this Contract. Seller grants Buyer and Buyer's inspectors, employees and agent(s) reasonable access to conduct walkthroughs of the Property for the purpose of conducting any inspections of the Property Buyer may require.

9. INVESTOR DISCLOSURE. Buyer is an investor and purchases properties with the intent to lease, resell, or otherwise make a profit. Seller acknowledges that the Purchase Price may be less than market value, and is willingly selling it as such for convenience, saving time, lack of funds to renovate, and/or other personal reasons. Buyer has not made Seller any representations or promises as to the value of the Property in its "as is" condition.

10. REMEDIES. If Seller fails to comply with any provision of this Contract, Buyer shall deliver a notice to Seller specifying the non-compliance and if the non-compliance is not cured within three days after delivery of Buyer's notice to Seller, such failure shall be a breach of Contract, entitling Buyer to pursuant any and all remedies available to Buyer under this Contract or at law or in equity, including, without limitation, an action for specific performance. In the event Buyer is forced to institute legal action to enforce this Contract, Seller will be held responsible for and hereby agrees to pay all legal fees and costs of said action. Seller shall pay all attorneys' fees and costs incurred by Buyer as they come due and Seller irrevocably assigns all unpaid

Purchase Price funds held in escrow to the benefit of Buyer and for the immediate payment of Buyer's attorneys' fees and costs. Seller hereby instructs the escrow company to pay out of such unpaid Purchase Price funds all of Seller's attorney's fees and costs as they are incurred.

11. REPRESENTATIONS BY SELLER. Seller represents and warrants to Buyer as follows:

- A. **[USE THIS IF THE PROPERTY IS VACANT]** The Property is not being used as a rental property. **[USE THIS IF THE PROPERTY IS OCCUPIED]** The Property is being used as a rental property and is leased to _____, a copy of which lease has been delivered to Buyer. That lease is the only lease in effect with respect to the Property as of Opening, and it is in full force and effect without modification. Seller is not in default and, to Seller's knowledge, tenant is not in default with respect to the lease, except as otherwise disclosed in writing to Buyer.
- B. This Contract and each of the documents and agreements to be delivered by Seller at COE constitute legal, valid and binding obligations of Seller, enforceable against Seller in accordance with their respective terms.
- C. Neither the execution of this Contract nor the performance by Seller of its obligations under this Contract will result in any breach or violation of (1) to Seller's actual knowledge, the terms of any law, rule, ordinance, or regulation; or (2) any decree, judgment or order to which Seller is a party now in effect from any court or governmental body; and (3) there are no consents, waivers, authorizations or approvals from any third party necessary to be obtained by Seller in order to carry out the transactions contemplated by this Agreement.
- D. The execution and delivery of this Agreement and performance by Seller of its obligations under this Agreement will not result in the creation of any new, or the acceleration of any existing, lien, charge, or encumbrance upon the Property.
- E. Seller has no actual knowledge and has received no notice that the Property is not in compliance with all applicable laws governing the use and operation thereof, nor, to Seller's actual knowledge, does there exist any facts or circumstances on the Property which with notice or the passage of time would constitute such a violation.
- F. The payoff of the total of all loans and other debts and encumbrances secured against the Property is \$ _____. Seller represents to Buyer that Seller may have equity and Seller understands Seller may be selling for less than current market value.
- G. As of Opening, Seller has not entered into any other agreement or contract to sell the Property.
- H. Seller has disclosed to Buyer all material latent defects and any information concerning the Premises known to Seller.

Each of the representations and warranties of Seller contained in this Section constitutes a material part of the consideration to Buyer and Buyer is relying on the correctness and completeness of these representations and warranties in entering into this transaction. Each of the representations and warranties is true and accurate as of the date of execution of this Contract by Seller, will be true and accurate as of COE and will survive COE.

12. OTHER AGREEMENTS. Seller shall not enter into an agreement or contract to purchase with anyone else concerning the Property from and after Opening. Should seller participate in another agreement which will interfere with COE, Seller will be responsible for any and all costs and losses of Buyer.

13. [USE THIS IF SELLER IS OCCUPYING THE PROPERTY.] VACATION OF PROPERTY. Seller shall vacate the Property on or before COE. When Seller vacates the Property, it shall leave it "neat and clean". Neat and clean is defined as all debris removed from the interior/exterior of the Property. In the event the Property is not left in a neat and clean condition, Buyer will have clean-up completed at Seller's expense which costs, at Buyer's option, may be deducted from the Purchase Price. Seller's obligation to pay Buyer shall survive the cancellation of this Contract or COE. Any items remaining in the Property as of COE will be considered trash and removed by the Buyer. **[USE THIS IF THE PROPERTY IS VACANT]** At COE, Seller shall deliver the Property to Buyer in a "neat and clean" condition. Neat and clean is defined as all debris removed from the interior/exterior of the Property. In the event the Property is not left in a neat and clean condition, Buyer will have clean-up completed at Seller's expense which costs, at Buyer's option, may be deducted from the Purchase Price. Seller's obligation to pay Buyer shall survive the cancellation of this

Contract or COE. Any items remaining in the Property as of COE will be considered trash and removed by the Buyer.

14. MARKETING. Seller authorizes Buyer to advertise the Property for sale or rent (as a principal to this contract, not the Seller's broker, agent or representative), and place signs on or advertise online the Property. If the Property is vacant as of the Opening, Buyer reserves the right to install a lockbox on the Property, which will contain a key to the Property. Seller acknowledges and agrees that the lockbox will permit access to the Property by real estate agents and/or other third parties, either with or without potential buyers. Seller acknowledges and agrees that there is a risk in having a lockbox on the Property, and that it is possible an unauthorized person may go into the Property. Buyer is not insuring Seller against theft, loss or vandalism resulting from any unauthorized access. Seller authorizes Buyer to employ a licensed real estate broker in connection with Buyer's marketing efforts. Seller may not concurrently market the Property without Buyer's prior written consent, which may be withheld in Buyer's sole and absolute discretion.

15. INDEMNITY AND RELEASE OF CLAIMS. Seller will indemnify Buyer for any money Buyer expends in connection with defending any claim or action against Seller or Buyer. Seller shall defend, indemnify, save and hold Buyer harmless for, from and against any and all Claims: (a) directly or indirectly relating in any way to the Property and accruing prior to COE; and (b) arising as a result of the breach by Seller of any of Seller's obligation under this Contract or under any other agreement or document delivered by Seller in accordance with this Contract, or as a result of the inaccuracy of any representation or warranty made by Seller in this Contract or in any other agreement or document delivered by Seller pursuant to this Contract or in connection with the transactions contemplated by this Contract. "Claims" means any and all obligations, debts, covenants, conditions, representations, costs, and liabilities and any and all demands, causes of action, and claims, of every type, kind, nature or character, direct or indirect, known or unknown, absolute or contingent, determined or speculative, at law, in equity or otherwise, including attorneys' fees and litigation and court costs.

16. AGENCY. SELLER ACKNOWLEDGES THAT SELLER HAS NOT BEEN REPRESENTED BY BUYER (_____), OR BY ANY REPRESENTATIVE OF BUYER WITH RESPECT TO THE PURCHASE AND SALE OF THE PROPERTY AS CONTEMPLATED BY THIS CONTRACT. SELLER AGREES AND UNDERSTANDS THAT THE BUYER AND BUYER'S REPRESENTATIVES ARE NOT ACTING AS SELLER'S BROKER OR AGENT IN THIS TRANSACTION AND HAVE BEEN ACTING SOLELY FOR BUYER'S OWN BENEFIT AS A PRINCIPAL TO THIS CONTRACT. [USE THIS IF ANY BUYER INVOLVED IN THIS DEAL IS A LICENSED REAL ESTATE AGENT]SELLER IS AWARE THAT _____ IS A LICENSED REAL ESTATE AGENT IN THE STATE OF _____. SELLER AGREES AND UNDERSTANDS THAT BUYER HAS A FINANCIAL INTEREST IN THE TRANSACTION OTHER THAN THE RECEIPT OF COMPENSATION FOR REAL ESTATE SERVICES. SELLER ACKNOWLEDGES THAT IF SELLER LISTS THE PROPERTY FOR SALE WITH BUYER OR ANOTHER AS BROKER OR AGENT TO SELL THE PROPERTY, THE SELLER MAY RECEIVE MORE CONSIDERATION THAT BUYER HAS AGREED TO PAY, AND SELLER IS WILLINGLY SELLING IT TO BUYER WITH FULL KNOWLEDGE OF SUCH. SELLER AGREES TO HOLD BUYER FREE FROM ANY AND ALL LIABILITY REGARDING THIS PROPERTY AND TRANSACTION ARISING FROM ANY CLAIM OF AGENCY. SELLER ACKNOWLEDGES THAT BUYER IS NOT ACTING AS A LENDER IN THIS TRANSACTION

(Seller's Initials _____)

17. EXISTING FINANCING. Seller shall satisfy any and all monetary liens on the Property as of COE. In the event Buyer permits any portion of any loan, debt or encumbrance against the Property to remain as of COE, the **Purchase Price** shall be reduced by the amount of such debt as of COE secured against the Property. Seller acknowledges that if the actual payoff figure is higher than the sum represented by Seller herein that the transaction may not be feasible to Buyer and in such event, Buyer reserves the unilateral right to cancel this Contract. Seller acknowledges that any loans and other debts and encumbrances secured against the Property and remain after COE will not be paid off at COE and will remain encumbrances against the Property at the discretion of the Buyer. Buyer may, in Buyer's sole discretion, negotiate the discounted payoff of such

Permitted Encumbrances after the Close of Escrow. Seller acknowledges that any deficiency amount resulting from a discounted payoff could result in a taxable event for which Seller may be liable.

18. ASSIGNMENT AND RELEASE. Seller agrees and acknowledges that Buyer may assign its rights under this Agreement to a wholly or partially owned entity of the Buyer or a third party that will close directly with Seller. Buyer shall give notice in writing to Seller of such assignment, and Seller agrees to release Buyer from any liability or duties under this Agreement.

19. CONDEMNATION AND CASUALTY. Seller bears all risk of loss until COE. Buyer may terminate this Contract and obtain a refund of the earnest money if improvements on the Property are destroyed or materially damaged by casualty before COE, or if condemnation proceedings are commenced against all or a portion of the Property before COE. Damage will be considered material if the costs of repair exceeds the lesser of \$25,000 or 5% of the **Purchase Price**. Alternatively, Buyer may elect to proceed with closing, in which case, at COE, Seller shall assign to Buyer all claims and rights to proceeds under any property insurance policy and shall credit to Buyer at COE the amount of any deductible provided for in the policy.

[CHOOSE ONE OF THESE FOR SECTION 20 AND DELETE THE INAPPLICABLE ONES.]

20. ESCROW CHARGES AND CLOSING COSTS. Upon COE, Seller and Buyer each agree to pay one-half of the escrow charges. All recording fees will be paid by Seller. Any other closing costs not provided for above or elsewhere in this Contract shall be paid by Buyer and Seller according to the usual and customary practice _____ County, _____.

21. ESCROW CHARGES AND CLOSING COSTS. Upon COE, Buyer agrees to pay all normal, non-reoccurring escrow charges and recording fees

22. PRORATIONS. Real property taxes payable by Seller will be prorated to COE based upon the latest tax information available. The amount of any assessment, other than homeowner's association assessments, that is a lien as of COE shall be paid in full by Seller.

22. MISCELLANEOUS.

A. **Time of Essence; Time Periods.** Time is of the essence of this Contract. The time for performance of any obligation or taking any action under this Contract shall be deemed to expire at 5:00 p.m. Arizona time on the last day of the applicable time period provided for in this Contract. If the time for the performance of any obligation or taking any action under this Contract expires on a Saturday, Sunday or legal holiday, the time for performance or taking such action shall be extended to the next succeeding day which is not a Saturday, Sunday or legal holiday.

B. **Notices.** All notices and requests must be in writing. They may be delivered either (a) personally; (b) by certified mail; (c) by fax; or (d) electronically. Notices or requests will be deemed received: (i) when accepted or rejected, if delivered personally, (ii) two days after being mailed, if mailed by certified mail; (c) when a fax confirmation is received, if faxed; or (d) when the receiving party has responded by email confirming receipt (email auto responses do not count).

C. **Necessary Documents and Acts.** Seller and Buyer each agree to sign such other documents and perform such acts as may be reasonably necessary or appropriate to consummate this transaction in accordance with the terms of this Contract.

D. **Entire Agreement.** This Contract constitutes the entire agreement between the parties pertaining to the subject matter contained in this Contract. All prior and contemporaneous agreements, representations and understandings of the parties, oral or written, are superseded by and merged in this Contract. No supplement, modification or amendment of this Contract shall be binding unless in writing and executed by Buyer, Seller and Escrow Agent.

E. **IRS and FIRPTA Reporting.** Seller agrees to comply with IRS reporting requirements. If applicable, Seller agrees to complete, sign and deliver to Escrow Agent, a certificate indicating whether Seller is a foreign person or a non-resident alien pursuant to the Foreign Investment in Real Property Tax Act.

F. **Construing the Contract.** Each of the parties to this Contract acknowledges that such party has had the benefit of independent counsel with regard to this Contract and that this Contract has been prepared as a

result of the joint efforts of all parties and their respective counsel. Accordingly, all parties agree that the provisions of this Contract shall not be construed or interpreted for or against any party to this Contract based upon authorship or any other factor but shall be construed and interpreted according to the ordinary meaning of the words used so as to fairly accomplish the purposes and intentions of all parties to this Contract.

G. **Partial Invalidity.** If any portion of this Contract is determined to be unenforceable, such portion of this Contract shall be stricken from and construed for all purposes not to constitute a part of this Contract, and the remaining portion of this Agreement shall remain in full force and effect and shall, for all purposes, constitute the entire Contract.

H. **Counterparts.** This Contract may be signed electronically and in counterparts, each together making it a binding agreement.

I. **Survival.** The following obligations of the parties will survive COE or cancellation of this Contract, whether contained in this Contract or in any agreement, instrument, or other document given by a party in connection with the transactions contemplated by this Contract: (a) any and all obligations of the parties that are to be performed following COE; (b) all indemnity obligations of the parties; (c) any and all warranties or representations of the parties; and (d) any other obligation with respect to which it is expressly provided that it will survive COE or cancellation of this Contract.

J. **Waivers.** No waiver of any of the provisions of this Contract shall constitute a waiver of any other provision, whether or not similar, nor shall any waiver be a continuing waiver. Except as expressly provided in this Contract, no waiver shall be binding unless executed in writing by the party making the waiver.

K. **Attorneys' Fees.** If either party should prevail in any litigation, arbitration or other legal proceeding instituted by or against the other related to this Contract, the prevailing party shall receive from the non-prevailing party all costs and reasonable attorneys' fees incurred in such proceeding, including costs on appeal.

L. **Cooperation.** Seller shall cooperate fully with Buyer in obtaining any necessary governmental approvals to the transfer of any item of property being sold to Buyer pursuant to this Agreement.

M. **Binding Effect.** The provisions of this Contract are binding upon and shall inure to the benefit of the parties and their respective heirs, personal representatives, successors and assigns.

N. **Right to Counsel.** Seller represents and agrees that Seller fully understands Seller's right to discuss all aspects of this Contract with an attorney, that Seller has carefully read and fully understands all of the provisions of this Contract, that Seller freely and voluntarily entered into this Contract and that Seller has read this document in its entirety and fully understands the meaning, intent and consequences of this Contract. This representation will survive this Contract's termination.

O. **Governing Law/Jurisdiction.** This Contract shall be governed by and construed and enforced under the laws of the State of [redacted], whose courts shall have jurisdiction over any legal proceedings or actions arising out of this Contract. [redacted] County, in the state of [redacted] shall be the place of venue of any such proceeding or action.

P. **Acceptance.** This contract shall remain in full force and effect until [redacted] o'clock PST. on [redacted]. If at this time the Seller has not executed and delivered a fully executed original agreement, the contract will become of no force and effect.

Q. **Any Other Terms Or Conditions (If None Write None):**

SELLER:

Signature Signature

Printed Name Printed Name

_____, 20____
Date

_____, 20____
Date

BUYER:

Signature

Printed Name

Date