

OFFER TO PURCHASE REAL ESTATE

EARNEST MONEY AGREEMENT AND REAL ESTATE PURCHASE CONTRACT

WHEN COMPLETED AND SIGNED BY BOTH PARTIES, THIS IS A LEGALLY BINDING CONTRACT. IF THIS CONTRACT IS NOT FULLY UNDERSTOOD, THE SERVICES OF A COMPETENT PROFESSIONAL SHOULD BE SOUGHT.

Seller(s) _____, hereby agrees to sell to Buyer(s) _____, or Buyer's nominee/assignee, the real property set forth below and all improvements thereon (herein referred to as the Property), and Buyer agrees to purchase said Property from the Seller on the terms and conditions set forth in this contract.

LEGAL DSCRIPTION: _____ Also described as _____ City _____ County _____ State _____ Zip _____

If the legal description is not included at the time of execution, it may be attached to and incorporated herein afterward.)

1. PURCHASE PRICE: The total purchase price to be paid for the Property by the Buyer is payable as follows:

- (a) Initial deposit \$ _____
(b) Sum due within _____ days after acceptance of this contract. \$ _____
(c) Additional sum due at closing (not including pro-rations) \$ _____
(d) Proceeds of new note and mortgage to be given by Buyer or any lender other than the Seller. \$ _____
(e) Existing mortgage on the Property which shall remain on the Property but which shall not subject Buyer to any penalty or fee or increase in the original interest rate of said mortgage . \$ _____
(f) Balance due Seller by promissory note of the Buyer subject to the requirements set forth in this contract \$ _____
(g) Balance due Seller by Articles of Agreement/Land Sale Contract for deed... \$ _____

TOTAL PURCHASE PRICE \$ _____

2. APPORTIONMENT OF PURCHASE PRICE AND DEED: Land \$ _____ Building \$ _____ Personal Property \$ _____ It is agreed that the Property will be conveyed by recordable Statutory Warranty Deed, with release of dower and homestead rights, subject to general real estate taxes for the current year, covenants, conditions, restrictions of record, and easements of record, all of which must be acceptable to Buyer.

3. Buyer will pay for recordation of deed and prorated share of prepaid insurance, taxes, and interest, if any.

4. The Seller will pay for: [] Revenue stamps (State, county, and local); [] Title commitment in the amount of the purchase price from _____ or any title insurance company duly licensed to underwrite title insurance in the state of _____; [] Survey; [] _____ Attorney's fees; [] Appraisal fee; [] Real estate commission; [] Title abstract; [] Title opinion letter; [] F.H.A./V.A. mortgage discount; [] Photographs; [] Satisfaction of mortgage and recording fee; [] Lead paint inspection; [] Home inspection; [] Repairs or replacements required by the F.H.A. or V.A. not to exceed \$ _____; [] Any other inspections required by law. [] _____.

Seller's Initials _____ Date _____ Buyer's Initials _____ Date _____

5. PRORATED ITEMS: All rents, water taxes or charges, taxes, assessments, monthly mortgage insurance premiums, fuel, prepaid service contracts, and interest on existing mortgages shall be prorated as of the date of closing. If Buyer is to accept the Property, subject to an existing mortgage requiring an escrow deposit for taxes, insurance, and/or other items, all escrow payments required to be made up to the time of closing shall be made to the escrow holder at Seller's expense and said escrow balance shall be assigned to the Buyer without compensation to the Seller; it being expressly understood that said escrow balance is included in the Total Purchase Price. All mortgage payments required of Seller to be made shall be current as of the time of closing. If the exact amount of real estate taxes cannot be ascertained at the time of closing, Seller agrees to prorate said taxes on the basis of 100% of the last ascertainable amount.

6. TITLE AND TITLE INSURANCE: Within _____ days after the date of acceptance of this contract after the date of approval of Buyer's mortgage loan (if any), the Seller will provide and deliver to Buyer or Buyer's Attorney: A title commitment for an owner's title insurance policy in the amount of the purchase price (to be issued by a title insurance company duly licensed by the state of _____, to underwrite title insurance); A title insurance commitment for a mortgage policy in the amount of \$ _____; A continuation of abstract.

7. SURVEY: Within _____ days after the date of acceptance of this contract after the date of approval of Buyer's mortgage loan (if any), the Seller will provide and deliver to Buyer or Buyer's Attorney: A new spotted certified survey having all corners staked and showing all improvements upon the Property. No survey is required.

8. EXAMINATION OF TITLE AND TIME OF CLOSING: If the title evidence and survey as specified above disclose that Seller is vested with fee simple title to the Property (subject only to the permitted exceptions set forth above acceptable to Buyer), this sale shall be closed and Buyer shall perform the agreements made in this contract, at a mutually agreed escrow company, on or before _____ _____ days after the mortgage loan approval _____ days after acceptance of this contract. If title evidence or survey reveal any defect or condition which is not acceptable to Buyer, the Buyer shall, within fifteen (15) days, notify the Seller of such title defects and Seller agrees to use reasonable efforts to remedy such defects and shall have thirty (30) days to do so, in which case this sale shall be closed within ten (10) days after delivery of acceptable evidence to Buyer and Buyer's Attorney that such defects have been cured. Seller agrees to pay for and clear all delinquent taxes, liens, and other encumbrances, unless the parties otherwise agree. If Seller is unable to convey to Buyer a good and insurable title to the Property, the Buyer shall have the right to demand all sums deposited by Buyer and held by or for the Seller. At the same time, Buyer shall return to Seller all items, if any, received from Seller, whereupon all rights and liabilities of the parties to this contract shall cease. However, the Buyer shall have the right to accept such title as Seller may be able to convey and to close this sale upon the other terms as set forth in this contract.

9. DEFAULT BY BUYER: If Buyer fails to perform the agreements of this contract within the time set forth herein, Seller may retain, as liquidated damages and not as a penalty, all of the initial deposit specified in paragraph 1(a) above, it being agreed that this is Seller's exclusive remedy.

10. DEFAULT BY SELLER: If Seller fails to perform any of the agreements of this contract, all deposits made by Buyer shall be returned to Buyer on demand, or the Buyer may bring suit against Seller for damages resulting from the breach of contract, or the Buyer may bring an action for specific performance. Buyer's remedies are cumulative and not exclusive of one another, and all other remedies shall be available in either law or equity to Buyer for Seller's breach hereof.

11. CONDOMINIUM PROVISION: (a) If the subject property is a condominium unit, this contract is subject to the condition that Seller be able to obtain release or waiver of any right of first refusal or other preemptive rights of purchase created by the Declaration of Condominium within the time established by said Declaration. If, after making every reasonable effort, Seller is unable to obtain such release or waiver within the time provided and so notifies Buyer within that time, this contract shall become null and void and all of Buyer's deposits shall be returned to the Buyer, provided that if said option or preemptive right is not exercised within the time specified by the Declaration of Condominium, this contract shall remain in full force and effect for that period of time which the Declaration of Condominium provides for completion of the sale, should the option or preemptive right not be exercised. If the Declaration of Condominium contains no such option or preemptive right, this paragraph (a) shall be null and void and not part of this contract. (b) Seller represents and warrants that there are no condominium assessments currently due and owing. Seller agrees to pay any assessments, including special assessments that have been or will be levied at any time prior to the date of closing.

Seller's Initials _____ Date _____ Buyer's Initial's _____ Date _____

12. ATTORNEY FEES AND COSTS: If any litigation is instituted with respect to enforcement of the terms of this contract, the prevailing party shall be entitled to recover all costs incurred, including, but not limited to, reasonable attorney's fees and court costs.

13. RISK OF LOSS OR DAMAGE: Risk of loss or damage to the Property by any cause is retained by the Seller until closing.

14. CONDITION OF THE PROPERTY: Seller agrees to deliver the Property to Buyer in its present condition, ordinary wear and tear excepted, and further certifies and represents that Seller knows of no latent defect in the Property. All heating, cooling, plumbing, electrical, sanitary systems, sprinklers system, fixtures, fireplaces and chimneys, and appliances shall be in good working order at the time of closing. Seller represents and warrants that the personal property conveyed with the premises shall be the same property inspected by Buyer and that no substitutions will be made without the Buyer's written consent. Buyer may also inspect or cause to be inspected the foundation, roof supports, or structural member of all improvements located upon the Property. If any such system, appliance, roof, foundation, or structural member shall be found defective, Buyer shall notify Seller at or before closing and Seller shall thereupon remedy the defect forthwith at his/her sole expense (in which case the time for closing shall be reasonably extended as necessary). If the costs of such repairs shall exceed 5% of the total purchase price, Seller may elect not to make such repairs and the Buyer may elect to take the Property in such defective condition and deduct 5% from the purchase price or Buyer may, at his/her option, elect to terminate this contract and receive the full refund of all deposits and other sums tendered hereunder. In addition, Seller agrees to remove all debris from the Property by date of possession. And further agrees the property and improvements, including the landscaping will be in the same general condition as they were on the date of Acceptance. Any seller or tenant moving-related damage to the Property shall be repaired at Seller's expense.

15. WALK THROUGH INSPECTION: Before Settlement, Buyer may, upon reasonable notice and at a reasonable time, conduct a "walk-through" inspection of the Property to determine only that the Property is "as represented," meaning that the items referenced are respectively present, repaired/changed as agree, and in the warranted condition. If the items are not as represented, Seller will prior to Settlement, replace, correct or repair the items or, with the consent of the Buyer, escrow an amount at Settlement to provide for the same. The failure to conduct a walk-through inspection, or to claim that an item is not as represented, shall not constitute a waiver by Buyer of the right to receive, on the date of possession, the items as represented.

16. CHANGES DURING TRANSACTION: Seller agrees that from the date of Acceptance until the date of Closing, none of the following shall occur without the prior consent of Buyer; (a) No changes in any existing leases shall be made; (b) no new leases shall be entered into, (c) no substantial alterations or improvements to the

Sample PROFORM