# PURCHASE AND SALE AGREEMENT
## NOT FOR USE WITH BOND MONEY

This Purchase and Sale Agreement (the "Agreement") is entered into by and between the parties herein provided, and is effective the date it is executed by the Buyer (the "Effective Date").

1. **Parties.** _____ (the "Seller") agrees to sell and convey to _____ (the "Buyer"), whose address is _____, and Buyer agrees to purchase from Seller the Property as described below.

**Buyer contact information:**
Home telephone number:
Cell phone number:
Email address:

2. **Description of Property.** Being all that certain real property located at _____(the street address) (the "Property"). To the extent there is a discrepancy between the street address and the legal description, the legal description shall control. If the legal description of the Property is not complete or is inaccurate, this Agreement shall remain valid and the legal description shall be completed or corrected to meet the requirements of the title company issuing the owner's title policy referenced below.

3. **Purchase Price.** Total purchase price calculation:

| | |
|---|---|
| Winning Bid Amount | $ |
| plus Buyer's Premium | $ |
| equals TOTAL PURCHASE PRICE | $ |

4. **Earnest Money.** $_____ is hereby tendered by Buyer and is to be deposited as Earnest Money with _____, the "Escrow Agent," upon execution of this Agreement by Seller and Buyer. If the purchase and sale hereunder is consummated in accordance with the terms and provisions hereof, the Earnest Money shall be applied to the cash portion of the Purchase Price at Closing, in all other events, the Earnest Money shall be disposed of by Escrow Agent as herein provided.

5. **Title.** Seller shall cause _____ (the "Title Company") to furnish to Buyer an Owner's Policy of Title Insurance ("Title Policy") in the amount of the Purchase Price, dated as of the Closing Date.

6. **No Repairs.** Buyer acknowledges and agrees that Seller shall make no repairs or improvements of any kind to the Property and that nothing disclosed by Seller shall require Seller to correct or improve any conditions disclosed or make repairs of any kind to the Property.

7. **Disclosures.** Seller acquired the Property either as a result of a foreclosure action, result of a like or similar action, i.e., deed-in-lieu or as part of a purchase from a prior servicer and that the total price set forth in the Agreement may reflect deferred maintenance. Accordingly, Seller has not conducted its own inspections nor has any personal knowledge of the condition of the Property other than as may be disclosed in the Inspection Report(s), if any. Buyer acknowledges that there has been no representation(s) by Seller, or any other person acting as Seller's representative and/or Buyer's representative regarding the condition of the Property, any of the appliances or structural components that may be contained therein, its fitness for general or specific use, or any other matter affecting the Property. If an inspection report has been obtained by or on behalf of Seller or Seller's representative (the "Inspection Report"), such Inspection Report may be provided to Buyer for Buyer's information only and shall not be deemed a part of the Agreement. If the Inspection Report has been provided to Buyer, no representation or warranty is made as to the accuracy and completeness of such report.

Neither Seller nor any person acting as Seller's representative has occupied the Property, and neither warrants or represents that the Property or any alterations or additions which may have been made to the Property conform to local building codes, zoning requirements or any other applicable laws, rules or regulations.

Buyer acknowledges that Buyer has had the opportunity to inspect, examine and make a complete review of the Property prior to the execution of the Agreement. Buyer will rely solely on Buyer's inspection and review to evaluate the condition of the Property.

8. **Seller Options.** Seller may determine in its sole and absolute discretion to accept or reject any offer. All offers become the property of Seller, and rejected offers will not be returned to Buyer. Buyer agrees that the submission of this offer to Seller and Seller's receipt of same shall not create or cause to arise in favor of Buyer any claim to, or interest in, the Property. The Buyer agrees Seller's acceptance of this offer may be evidenced solely by Seller's endorsement hereon of Seller's acceptance of this offer pursuant to Seller's procedures therefore.

9. **Certification of Non-Affiliation.** Buyer represents and warrants to Seller that Buyer or any person acting on behalf of Buyer has no relation or affiliation with the prior owner of the Property. Buyer further represents that Buyer has not made any

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_____ Buyer's Initials

_____ Seller's Initials

agreements, written or oral, expressed or implied, with the prior owner or any person or entity affiliated or connected with the prior owner for the payment or retention of any additional amounts to or from prior owner; and the purchase and sale of the Property is an arm's length transaction. Buyer acknowledges that Seller is relying on this representation and warranty from Buyer in approving and executing this Agreement.

10. **Brochure.** Buyer represents and warrants that Buyer has received, read and accepts the terms and conditions pertaining to the sale of the Property which are set forth in the Auction Brochure (the "Brochure"), which terms and conditions are incorporated herein by reference. In the event of any conflict or inconsistency between the terms and conditions of this Agreement and the terms and conditions of the Brochure, the terms and conditions of this Agreement shall control and prevail in all respects.

11. **Occupied Property.** Seller makes no representations or warranties as to whether the Property is occupied as of the Closing Date. Buyer understands and acknowledges that the Property may be subject to leasehold interests or other rights or claims of various Occupants or Claimants (defined below) who may or may not have been granted a legal interest in the Property and/or who may claim a right to lease, use, or occupy all, or a portion of, the Property, whether or not such Occupants or Claimants are currently in actual possession or occupancy of all or a portion of the Property. As used herein, "Occupants or Claimants" shall be deemed to mean and include all tenants and licensees (whether or not in default under any occupancy or use agreements), any other occupants of the Property (whether or not authorized by Seller or others to be in possession of the Property), and any and all persons claiming a right to lease, use, or occupy all, or a portion of, the Property, in each case whether or not currently in actual possession or occupancy of all or a portion of the Property. Buyer acknowledges that neither the Seller nor its representatives, auctioneer, brokers, agents or assigns has made any warranties or representations, implied or express, relating to the existence or nonexistence of any Occupants or Claimants at the Property other than advising Buyer that the Property may have Occupants or Claimants in possession of the Property or claiming the right to occupy or use the Property or any portion thereof. At Closing, Buyer will assume all responsibility and liability for or with respect to any Occupants or Claimants of the Property.

Seller advises that the Property may have Occupants or Claimants occupying the Property under an active lease or other occupancy agreement but expressly disclaims any representations or warranties regarding the validity, enforceability, performance under or continuation of any lease or other occupancy agreement; whether or not any rent concessions were given to any Occupants or Claimants; whether or not any other agreements were made with the Occupants or Claimants; whether or not any rent charged violates any applicable rent control or similar ordinance, statute, or law; whether or not any other violations of any applicable ordinance, statute, or law exist; and whether or not Seller or any Occupants or Claimants is in default under any lease or other occupancy agreement. Because the Property may have been acquired by Seller through foreclosure, trustee's sale pursuant to a power of sale under a deed of trust, power of sale under a mortgage, sheriff's sale, deed-in-lieu of foreclosure or similar procedure or transaction, Seller may have no security deposits, last month's rent or any other amount paid under a lease or occupancy agreement to transfer to Buyer. The Buyer further acknowledges that, to the best of the Buyer's knowledge, the Seller (a) is not holding any security deposits in any form ("Security Deposits") or pre-paid rent or other sums ("Prepaid Rent") from former or current Occupants or Claimants, and (b) has no information as to any Security Deposits or Prepaid Rent that may have been paid or advanced by former or current Occupants or Claimants to anyone. Buyer agrees that no sums representing such Security Deposits or Prepaid Rent, or any rights, title, or interest in any such Security Deposits or Prepaid Rent, shall be transferred to the Buyer as part of this transaction. The Buyer further agrees to assume all responsibility and liability for the refund of any such Security Deposits or Prepaid Rent to the persons legally entitled thereto pursuant to the provisions of applicable laws and regulations and of any lease or other agreement concerning such Security Deposits or Prepaid Rent even though such Security Deposits or Prepaid Rent may not have been paid or transferred to Buyer. All rents that are due and payable and collected from tenants for the month in which closing occurs will not be prorated and will be the property of and retained by Seller.

Seller may provide Buyer with a Quitclaim Assignment of Lease ("Assignment") at Closing, which will assign and quitclaim unto Buyer all of Seller's right, title and interest, if any, as landlord under any lease or other occupancy agreement affecting the Property. Buyer agrees to assume all obligations of landlord under any such lease or occupancy agreement affecting the Property and to comply with the terms thereof. Buyer agrees to indemnify and hold Seller harmless from and against any liabilities, costs, claims or expenses arising out of any lease or other occupancy agreement affecting the Property from and after the effective date of the Assignment. Buyer acknowledges and agrees that Seller may have no leasehold or other interest to assign to Buyer and that the Assignment would be a quitclaim assignment of Seller's interest under a lease or other occupancy agreement affecting the Property only to the extent Seller holds such interest and only to the extent such interest is assignable by Seller.

The Buyer acknowledges that this Property may be subject to the provisions of federal, state or local rent control, rent stabilization, lease termination or similar laws, ordinances and regulations. The Buyer agrees that upon the Closing, all eviction proceedings and other duties and responsibilities of a property owner and landlord, including, but not limited to, those proceedings required for compliance with any federal, state or local laws, ordinances and regulations will be the Buyer's sole responsibility and obligation. Without limiting the foregoing, Buyer understands and acknowledges that the Property and Buyer may be subject to the terms of the Protecting Tenants at Foreclosure Act of 2009 set forth as Division A, Title VII of the Helping Families Save Their Homes Act of 2009 [Pub. L. 111-22, 123 Stat. 1632, S. 896, enacted May 20, 2009] (the "Act") which permits certain tenants or occupants to continue to possess the Property for the period of time prescribed by the Act. In addition, Buyer understands and acknowledges that the Property and Buyer may be subject to the terms of the United States Servicemembers

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Civil Relief Act (50 USCS Appx §531) ("SCRA"), which may impede or affect Buyer's ability to evict an Occupants or Claimants who is a service member or his/her dependents. Buyer is responsible for ensuring full compliance with all applicable provisions of the Act, SCRA and any similar federal, state or local statute or regulation, and hereby waives and releases any claims Buyer may have against Seller that arise directly or indirectly out of (i) the Act, SCRA or similar federal, state or local statutes or regulations, or (ii) the rights of any Occupants or Claimants of the Property pursuant to the Act, SCRA or similar federal, state or local statutes or regulations.

12. **"AS-IS" PROPERTY CONDITION. BUYER ACKNOWLEDGES AND AGREES THAT SELLER HAS NOT MADE AND HEREBY SPECIFICALLY DISCLAIMS ANY WARRANTY, GUARANTY, OR REPRESENTATION, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO OR CONCERNING (I) THE NATURE, SQUARE FOOTAGE, CONDITION, VALUE OR QUALITY OF THE PROPERTY, INCLUDING BUT NOT BY WAY OF LIMITATION THE WATER, THE SOIL AND GEOLOGY, AND THE SUITABILITY THEREOF AND OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH BUYER MAY ELECT TO CONDUCT THEREON; (II) THE MANNER OR QUALITY OF THE CONSTRUCTION OR MATERIALS, IF ANY, INCORPORATED INTO THE PROPERTY, CONDITION, QUALITY, THE STATE OF REPAIR OR LACK OF REPAIR OF ANY OF THE PROPERTY; (III) EXCEPT FOR ANY WARRANTIES CONTAINED IN THE DEED, THE NATURE AND EXTENT OF ANY RIGHT-OF-WAY, LEASE, POSSESSION, LIEN, ENCUMBRANCE, LICENSE, RESERVATION, CONDITION, OR OTHERWISE; (IV) THE COMPLIANCE OF THE PROPERTY OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES, OR REGULATIONS OF ANY GOVERNMENT OR OTHER BODY; (V) THE INCOME TO BE DERIVED FROM THE PROPERTY; (VI) THE EXISTENCE OF ANY VIEW FROM THE PROPERTY OR THAT ANY EXISTING VIEW WILL NOT BE OBSTRUCTED IN THE FUTURE; (VII) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY; (VIII) THE STRUCTURAL INTEGRITY OF ANY IMPROVEMENTS ON THE PROPERTY; (IX) THE CONFORMITY OF THE IMPROVEMENTS TO ANY PLANS OR SPECIFICATIONS FOR THE PROPERTY THAT MAY BE PROVIDED TO BUYER; (X) THE CONFORMITY OF THE PROPERTY TO APPLICABLE ZONING OR BUILDING CODE REQUIREMENTS, OR ANY OTHER GOVERNMENTAL REQUIREMENTS; (XI) THE EXISTENCE OF SOIL INSTABILITY, PAST SOIL REPAIRS, SUSCEPTIBILITY TO LANDSLIDES, SUFFICIENCY OF UNDER-SHORING, SUFFICIENCY OF DRAINAGE, OR ANY OTHER MATTER AFFECTING THE STABILITY OR INTEGRITY OF THE LAND OR ANY BUILDINGS OR IMPROVEMENTS SITUATED THEREON; (XII) WHETHER THE PROPERTY IS LOCATED IN A SPECIAL STUDIES ZONE UNDER THE PUBLIC RESOURCES CODE OR A SEISMIC HAZARDS ZONE OR A STATE FIRE RESPONSIBILITY AREA, OR A SPECIAL FLOOD HAZARD ZONE; OR (XIII) ANY OTHER MATTER WITH RESPECT TO THE PROPERTY. BUYER ACKNOWLEDGES THAT THE PROPERTY MAY NOT BE IN COMPLIANCE WITH APPLICABLE ZONING, BUILDING, HEALTH OR OTHER LAW OR CODES, AND NEITHER SELLER NOR ANY PERSON ACTING AS SELLER'S REPRESENTATIVE OR AGENT HAS OCCUPIED THE PROPERTY AND THAT THE PROPERTY MAY NOT BE IN HABITABLE CONDITION. BUYER HEREBY EXPRESSLY ACKNOWLEDGES AND AGREES THAT BUYER HAS THOROUGHLY INSPECTED AND EXAMINED THE PROPERTY TO THE EXTENT DEEMED NECESSARY BY BUYER IN ORDER TO ENABLE BUYER TO EVALUATE THE PURCHASE OF THE PROPERTY. BUYER HEREBY FURTHER ACKNOWLEDGES AND AGREES THAT BUYER IS RELYING SOLELY UPON THE INSPECTION, EXAMINATION AND EVALUATION OF THE PROPERTY BY BUYER AND THAT BUYER IS PURCHASING THE PROPERTY ON AN "AS IS, WHERE IS" AND "WITH ALL FAULTS" BASIS AND NOT ON ANY INFORMATION PROVIDED OR TO BE PROVIDED BY SELLER AND BUYER EXPRESSLY ACKNOWLEDGES THAT, IN CONSIDERATION OF THE AGREEMENTS OF SELLER HEREIN, SELLER MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, INCLUDING, BUT IN NO WAY LIMITED TO, ANY WARRANTY OF CONDITION, HABITABILITY, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE EXCEPT AS OTHERWISE SPECIFIED HEREIN. IT IS FURTHER AGREED THAT SELLER HAS NOT WARRANTIES, AND DOES NOT HEREBY WARRANT, THAT THE PROPERTY OR ANY IMPROVEMENTS LOCATED THEREON NOW OR IN THE FUTURE WILL MEET OR COMPLY WITH THE REQUIREMENTS OF ANY SAFETY CODE OR REGULATION OF THE STATE, COUNTY OR CITY WHERE THE PROPERTY IS LOCATED, OR ANY OTHER AUTHORITY OR JURISDICTION. BUYER FURTHER ACKNOWLEDGES AND AGREES THAT WITHOUT LIMITATION, SELLER HAS NOT MADE, DOES NOT MAKE, AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS REGARDING COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT OR WITH ANY ENVIRONMENTAL PROTECTION, POLLUTION OR LAND USE LAWS, RULES, REGULATIONS, ORDERS OR REQUIREMENTS, AS DEFINED BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY REGULATIONS OR THE DISPOSAL OR EXISTENCE, IN OR ON THE PROPERTY, OF ANY HAZARDOUS SUBSTANCE AS DEFINED BY THE COMPREHENSIVE ENVIRONMENTAL RESPONSE COMPENSATION AND LIABILITY ACT OF 1980, AS AMENDED, AND REGULATIONS PROMULGATED THEREUNDER. FURTHERMORE, SELLER WILL NOT BE RESPONSIBLE FOR THE PRESENCE OF HAZARDOUS MATERIALS IN, ON, UNDER OR ABOUT THE PROPERTY.**

**BUYER HAS KNOWLEDGE AND EXPERIENCE IN FINANCIAL AND BUSINESS MATTERS THAT ENABLE BUYER TO EVALUATE THE MERIT AND RISKS OF THE TRANSACTION CONTEMPLATED HEREBY. BUYER IS NOT IN A DISPARATE BARGAINING POSITION VIS-À-VIS SELLER, AND BUYER HEREBY WAIVES, TO THE MAXIMUM EXTENT PERMITTED BY LAW, ANY AND ALL RIGHTS, BENEFITS AND REMEDIES UNDER THE DECEPTIVE TRADE PRACTICES – CONSUMER PROTECTION ACT WITH RESPECT TO ANY MATTERS PERTAINING TO THIS AGREEMENT AND THE TRANSACTION CONTEMPLATED HEREBY.**

**IT IS FURTHER AGREED THAT SELLER DOES NOT MAKE ANY REPRESENTATIONS OR WARRANTIES REGARDING ENVIRONMENTAL PROTECTION, POLLUTION, OR LAND USE LAWS, REGULATIONS, ORDERS OR REQUIREMENTS, INCLUDING BUT NOT LIMITED TO SOLID WASTE DISPOSAL ACT AND THE REGULATIONS ADOPTED THEREUNDER**



Buyer's Initials _____ Seller's Initials _____

**OR THE U.S. ENVIRONMENTAL PROTECTION AGENCY REGULATIONS AT 40 C.F.R., PART 261, OF THE DISPOSAL OR EXISTENCE IN, ON OR EMANATING FROM THE PROPERTY OF ANY HAZARDOUS SUBSTANCE, AS DEFINED BY THE COMPREHENSIVE REGULATIONS PROMULGATED THEREUNDER. BUYER HEREBY ASSUMES ALL RISKS AND LIABILITY AND AGREES THAT SELLER SHALL NOT BE LIABLE FOR ANY SPECIAL, DIRECT, INDIRECT, CONSEQUENTIAL, OR OTHER DAMAGES RESULTING OR ARISING FROM OR RELATING TO THE OWNERSHIP, USE, CONDITION, LOCATION, MAINTENANCE, REPAIR OR OPERATION OF THE PROPERTY. BUYER FURTHER ACKNOWLEDGES AND AGREES THAT SELLER HAS OWNED THE PROPERTY ONLY SINCE THE DATE OF SUCH TRANSFER AND IS NOT IN A POSITION TO MAKE ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, AS TO THE PROPERTY.**

**SELLER IS NOT LIABLE OR BOUND IN ANY MANNER BY ANY VERBAL OR WRITTEN STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE PROPERTY OR THE OPERATION THEREOF FURNISHED BY ANY REAL ESTATE BROKER, AGENT, EMPLOYEE OR OTHER PERSON. THE PROVISIONS OF THIS SECTION SHALL SURVIVE THE CLOSING.**

**UPON CLOSING, BUYER ACKNOWLEDGES AND AGREES THAT SELLER AND ITS AGENTS AND ASSIGNS HAVE NO FURTHER RESPONSIBILITY, OBLIGATION OR LIABILITY TO BUYER. BUYER AGREES THAT SELLER AND ITS AGENTS AND ASSIGNS SHALL HAVE NO LIABILITY FOR ANY CLAIM OR LOSSES BUYER OR BUYER'S SUCCESSORS AND ASSIGNS MAY INCUR AS A RESULT OF DEFECTS THAT MAY NOW OR MAY HEREAFTER EXIST WITH RESPECT TO THE PROPERTY, AND BUYER SHALL HOLD HARMLESS, INDEMNIFY AND DEFEND SELLER FROM ANY SUCH CLAIM. BUYER AND ANYONE CLAIMING BY, THROUGH OR UNDER THE SAME HEREBY FULLY AND IRREVOCABLY RELEASE SELLER AND ITS EMPLOYEES, OFFICERS, DIRECTORS, REPRESENTATIVES, ATTORNEYS, AUCTION COMPANY, BROKERS AND AGENTS FROM ANY AND ALL CLAIMS THAT HE/SHE/IT OR THEY MAY NOW HAVE OR HEREAFTER ACQUIRE AGAINST SELLER AND ITS EMPLOYEES, OFFICERS, DIRECTORS, REPRESENTATIVES, ATTORNEYS, BROKERS AND AGENTS FOR ANY COST, LOSS, LIABILITY, DAMAGE, EXPENSE, DEMAND, ACTION OR CAUSE OF ACTION ARISING FROM OR RELATING TO ANY CONSTRUCTION DEFECTS, ERRORS, OMISSIONS OR OTHER CONDITIONS, INCLUDING ENVIRONMENTAL MATTERS AFFECTING THE PROPERTY, OR ANY PORTION THEREOF. THIS RELEASE INCLUDES CLAIMS OF WHICH BUYER IS PRESENTLY UNAWARE OR DOES NOT PRESENTLY SUSPECT TO EXIST, WHICH, IF KNOWN BY BUYER, WOULD MATERIALLY AFFECT BUYER'S RELEASE TO SELLER.**

13. **Eminent Domain.** In the event that the Seller's interest in the Property, or any part thereof, shall have been taken by eminent domain, or shall be in the process of being taken on or before the Closing Date, either party may terminate the Agreement and the Earnest Money shall be returned to the Buyer and neither party shall have any further rights or liabilities hereunder, except as provided for in the Agreement.

14. **Auction Broker Fee.** If and when the sale is consummated and the total purchase price is fully funded, Buyer agrees to pay **ServiceLink Auction Services, Inc.**, as "Auction Broker or Broker", a fee under the terms and conditions specified by separate agreement between ServiceLink Auction Services, Inc., and Buyer. ServiceLink Auction Services, Inc., will pay any cooperating brokers pursuant to such separate agreement. To the actual knowledge of Seller and Buyer, no other Acquisition Fee (as hereafter defined) has been paid or is due and owing to any other person or entity other than to Broker. As used herein "Acquisition Fee" shall mean all fees paid to any third person or entity in connection with the selection and purchase of the Property, including real estate commission, selection fees, non-recurring management and start-up fees, development fees or any other fee of a similar nature. Seller and Buyer each hereby agrees to indemnify and hold harmless the other from and against any and all claims for Acquisition Fees or similar charges with respect to this transaction, arising by, through or under the indemnifying party and each further agrees to indemnify and hold harmless the other from any loss or damage resulting from an inaccuracy in the representations contained in this paragraph; and such agreement to indemnify between the parties shall survive the Closing.

In addition to the fees described in this Section 14, Buyer and Seller agree that a Buyer's Premium (as defined below) in an amount equal to five percent (5%) of the Purchase Price or two thousand five hundred dollars ($2,500.00), whichever is greater (the "Buyer's Premium"), shall be collected at the Closing from the Buyer. At the Closing, the Buyer's Premium set forth in Section 3 shall be paid to ServiceLink Auction Services, Inc., by the Escrow Holder, via wire of immediately available funds, and the same shall be reflected on the HUD-1 Settlement Statement.

15. **Closing.** The Closing of the sale between Seller and Buyer shall be **on or before days from the date of Seller execution of this Agreement** (the "Closing Date" or "Closing"). Subject to the following provisions extending the Closing Date, if either party fails to close this sale by the Closing Date, the non-defaulting party shall be entitled to exercise the remedies in Section 29 of this Agreement immediately and without notice; provided, however, if Seller is unable to close on the Closing Date because the Title Company will not issue an owner's policy of title insurance, the Closing Date shall be automatically extended up to fifteen (15) days; and such inability of Seller to deliver title to Buyer as required in this Agreement at or prior to the Closing Date, shall be deemed no fault of Seller. Additionally, if Seller fails to perform within the extended time, then Buyer may terminate this Agreement and receive the Earnest Money as its sole and exclusive remedy. IF BUYER DESIRES TO EXTEND THE CLOSING DATE, BUYER MUST REQUEST IN WRITING TO SELLER A ONE-TIME TEN (10) DAY EXTENSION OF THE CLOSING DATE FOR A NON-REFUNDABLE FEE EQUAL TO AN ADDITIONAL FIVE PERCENT (5%) OF THE PURCHASE PRICE, OR $500.00 (WHICHEVER IS GREATER), PAYABLE IN CASH AND DELIVERED BY BUYER TO ESCROW AGENT

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Buyer's Initials Seller's Initials

ON OR BEFORE THE ORIGINAL CLOSING DATE. IF THE EXTENSION IS APPROVED BY SELLER, THEN THE ADDITIONAL FEE WILL BE ADDED TO THE DOWN PAYMENT AND BE APPLICABLE TO THE PURCHASE PRICE. IN ADDITION TO THE NON-REFUNDABLE FEE, BUYER WILL PAY TO SELLER A DAILY PER DIEM OF UP TO $100.00 FOR EACH DAY PAST THE ORIGINAL CLOSING DATE UP TO THE NEW CLOSING DATE. THIS DAILY PER DIEM WILL BE COLLECTED FROM BUYER AND PAID TO SELLER ON THE SETTLEMENT STATEMENT. IF BUYER FAILS TO PERFORM WITHIN THE NEW EXTENDED TIME, SELLER MAY TERMINATE THIS AGREEMENT AND RECEIVE THE EARNEST MONEY AND ADDITIONAL FEE(S) AS ITS SOLE AND EXCLUSIVE REMEDY. SELLER SHALL BE ENTITLED TO SUCH FEE WITHOUT CONDITION.

16. **Costs and Prorations.**

a. **Prorations.** "Prorations" shall include such items as: (i)(a) real property taxes (including assessments and like charges); (b) collected rents (if applicable); (c) condominium assessments (if applicable); (d) homeowner association fees (including special and emergency dues and assessments, if applicable); all pertaining to the Property that has accrued or been imposed prior to Closing Date; (ii) payments on bonds; (iii) Mello-Roos payments and other special assessment district bonds; and (iv) other known and identified charges and assessments. All such Prorations shall be calculated as of the day of Closing for the current calendar year and shall be prorated and paid to the Title Company for payment to the taxing authorities and other appropriate party based upon the best available estimates of the amount(s) that will be due and payable on the Property during the current calendar year. Seller and Buyer shall pay to the Title Company in cash at the Closing their prorated portions of such taxes and assessments. Seller shall provide Title Company with any rent rolls in Seller's possession that would assist Escrow Agent in prorating rents. All past due but unpaid rents owing by tenants of the Property prior to the Closing shall remain the property of the Seller and Seller shall have the right to collect same for its own account. If the regular homeowner's association dues were paid prior to the Closing Date for a period of time subsequent to the Closing Date, then Buyer shall pay to Seller that portion of the assessment attributed to the period of time after the date of Closing. Any homeowner's association transfer fees or document fees payable in connection with the sale of the Property from Seller to Buyer shall be paid by the Buyer. Insurance premiums will not be prorated. Seller cannot endorse or assign existing insurance policies to Buyer, and Seller may cancel any existing insurance on the Property as of the Closing Date.

b. **Seller's Expenses.** Seller shall be responsible and shall pay for any and all Seller attorney fees, the premium for the owner's title insurance policy including any title search and examination fees, provided that the Policy is purchased through and the settlement/Closing conducted by Seller's designated attorney or agent, Seller's share of Prorations and any documentary transfer tax that may be imposed by the County and/or City in which the Property is located, tax certificates, preparation of the conveyance deed, Seller's escrow fees and overnight and express fees. Title Company is hereby authorized to pay from Seller's proceeds Seller's expenses set forth in this Section 16. If Seller contributes to Buyer's closing costs (to include non-allowables, prepaids and points) any excess beyond the approved amount will be credited back to the Seller.

c. **Buyer's Expenses.** Buyer shall pay any and all lender fees including but not limited to the costs of credit reports, loan fees, loan points and other costs of obtaining the new first trust deed loan, half of the escrow fees and charges, tax service fees, recordation fees for the grant deed and any deed of trust, Buyer's share of Prorations under Section 16a above, pro rata portion of any and all property taxes, assessments and like charges and levies for the applicable tax year and first month's condominium / homeowner's association membership fees and assessments, if any, and other closing costs of Buyer, including any Buyer attorney fees, escrow fees, recording fee, stamps and any express or overnight, wire transfer fees and courier fees. Any and all termite clearances and reports and any inspections required by any lender, and not limited to any roof certifications shall be at the sole cost and expense of Buyer. The foregoing costs and expenses shall be paid by Escrow Agent on Buyer's behalf from funds deposited in Escrow by Buyer.

d. **Post-Closing Adjustments.** Buyer agrees to pay any shortages in taxes directly to the taxing authority. All Prorations at Closing reflected on the settlement or closing statement signed by the Seller are final including Prorations for taxes. No adjustments or payments will be made by the Seller after Closing.

e. **Final Funds to Close Escrow.** All parties acknowledge that Good Funds are required for Closing. "Good Funds" are defined as cash or electronic transfer (wired funds) and Escrow Agent can disburse the funds on the same business day as the business day of the deposit. In the case of deposit with the Escrow Agent in the form of cashier's or certified checks drawn on a local financial institution, the Escrow Agent can disburse the funds on the next business day after the business day of receipt. Out-of-state checks and all drafts do not constitute Good Funds and will cause Buyer to be deemed in default as per provisions of this Agreement.

17. **Title Approval.**

a. The Title Policy to be furnished to Buyer shall insure Buyer's title to the Property to be good and indefeasible subject only to the following ("Permitted Title Exceptions"): (1) Title Company's standard exception; (2) restrictive covenants affecting the Property; (3) any discrepancies or conflicts in boundary lines, any shortages in area, or any encroachment or overlapping of improvements, any facts, rights, interests or claims which are not shown by the public

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record but which could be ascertained by an accurate survey of the land or by making inquiry of persons in possession thereof; (4) taxes and assessments not due and payable at the Commitment (as defined below) date, and subsequent assessments for prior years due to change in land usage and ownership; (5) taxes, assessments and/or fees which may arise due to noncompliance of municipal ordinances and/or city, township or county inspections not being obtained or passed; (6) existing building and zoning ordinances; (7) easements, liens or encumbrances or claims thereof which are not shown by the public record; (8) any liens or right to lien for services, labor or material imposed by law and not shown by the public record; (9) covenants, conditions and restrictions, if any, appearing in the public record; (10) any easements or servitudes appearing in the public records; (11) any lease, grant, exception or reservation of mineral rights appearing in the public record; (12) loss or damage arising out of a lien or assessment arising from any work completed by any municipality for snow removal, grass cutting, securing / boarding of the subject Property, debris removal, or assessments for violations of any city ordinances, not of record with local or county recorder's office prior to the date of Closing; (13) loss or damage sustained by failure to obtain any certificates of occupancy, habitability, inspections, or other permits required by the municipality, as per any local ordinance or statute; (14) liens created or assumed as security for the Purchase Price; (15) utility easements common to the platted subdivision of which the Property is part; (16) reservations or other exceptions permitted by the terms of this Agreement; and **[Check Block if Applicable]** ☐ (17) the terms and provisions of the Declaration, Bylaws and Rules and Regulations of the Condominium Regime pertaining to the Unit (the "Condominium Documents"), including the platted easements and assessments set out therein. Seller shall deliver to Buyer, or have available for Buyer's review, the title commitment of the Title Company (the "Commitment") and legible copies of any documents creating title exceptions, not before the auction, but at least ten (10) days prior to Closing. Buyer may only object to any exceptions reflected in the Commitment other than those set forth in sub-paragraphs (1) through (7), and **[Check Box if Applicable]** ☐ (8) above, inclusive, and only if the Commitment was not available for review prior to the auction. Buyer will have five (5) days after receipt of such Commitment and documents to make written objection(s) to Seller.

b. If the Commitment reveals a defect in title which is not one of the Permitted Title Exceptions, allowing that said Commitment was not available for review prior to the auction, or if, prior to the Closing, a new defect in title is disclosed by an updated endorsement to the Commitment, which defect is not one of the Permitted Title Exceptions, Buyer may either waive such defect or give written notice to Seller and Closing Agent, pursuant to Section 44 of this Agreement, of such defect in title, whereupon Seller may, at its option, attempt to cure such defect prior to the Closing or decline to cure such defect. If Seller is unable or unwilling to cure, on or before the Closing Date, any defect as to which Buyer has notified Seller as hereinabove provided and if Buyer does not waive such defect, this Agreement shall be terminated without liability to either party and the Earnest Money shall be returned to Buyer. Notwithstanding the foregoing, Seller shall have the right, at its sole election, to extend the Closing Date by not more than thirty (30) days to attempt to cure any defect in title objected to by Buyer in accordance with this Section 17. Seller shall give Buyer five (5) days' notice of the new Closing Date.

c. Seller shall furnish to Buyer on the Closing Date the following: (1) Seller's form of Special Warranty Deed (the "Deed") executed by Seller, conveying the Property to Buyer, subject to all matters of record affecting the Property; (2) an affidavit of Seller certifying that Seller is not a "foreign person", as defined in the Federal Foreign investment in Real Property Tax Act of 1980, and the 1984 Tax Reform Act, as amended; and (3) any other Seller related documents deemed necessary by Title and Escrow Agents.

18. **Condominium / PUD / Homeowner's Association.** If the Property is a condominium, planned unit development, homeowner's association or cooperative, unless otherwise required by law, Buyer, at Buyer's own expense, is responsible for obtaining and reviewing the covenants, conditions, restrictions and/or bylaws of the relevant entity within seven (7) days of the Seller's acceptance. Seller's Real Estate Agent or Seller's closing entity agrees to use reasonable efforts to assist Buyer in obtaining a copy of said documents. Buyer will be deemed to have accepted the covenants, conditions, restriction and/or bylaws if Buyer does not notify Seller in writing within ten (10) days of Seller's acceptance, of Buyer's objection to the same.

19. **Inspection.** Buyer shall not directly or indirectly cause any inspection to be made by any government building or zoning inspector or government employee without the prior written consent of Seller, unless such inspection is required by law.

20. **Escrow.** The Earnest Money to be and having been deposited with the Escrow Agent with the understanding that (a) the Escrow Agent does not assume or have any liability for performance of any signatory; (b) is not liable for interest or other charges on the funds held; and (c) is liable only for gross negligence or willful misconduct. At Closing, the Earnest Money shall be applied toward the Purchase Price. Buyer and Seller authorize Escrow Agent to accept and rely on copies by any means (including photocopy, NCR, facsimile and electronic) and signatures (including electronic copy of signature complying with local state law) as originals to open Escrow and for other purposes of Escrow. The validity of this Agreement as between Buyer and Seller is not affected by whether or when Escrow Agent signs the Agreement.

21. **Form of Deed.** The deed to be delivered at Closing shall be, as determined by Seller, a Special Warranty Deed, Quitclaim Deed or a similar form of deed for the specific jurisdiction in which the Property is located and shall be a deed that covenants that grantor grants only that title which grantor may have and that grantor will only defend title against persons claiming by, through, or under the grantor, but not otherwise. Any reference to the term "deed" herein shall be construed to refer to such form of deed.

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22. **Costs of Survey.** If a survey is required to close, it will be the sole responsibility of Buyer herein and will be at the Buyer's expense.

23. **Personal Property.** Seller is not hereby conveying any personal property other than as provided in this Agreement and makes no representations or warranties regarding same. Any items of personal property remaining after the sale of the Property are deemed to add no value to the transaction and are not a part of the actual transaction, and are given to Buyer in "AS-IS" condition with no Seller representation or warranty regarding condition or ownership. No bill of sale will be provided for such items.

24. **Financing.**

☐ **Property is being sold "ALL CASH" at Closing.**
☐ **Property is being sold "ALL CASH" at Closing however Buyer will be obtaining financing.**

This sale and escrow are NOT contingent upon Buyer obtaining a new first trust deed loan, any other financing (i.e., the sale shall be on an all cash basis), or lender approval, nor will Escrow be extended for that purpose or any other purpose (except as otherwise expressly permitted elsewhere in this Agreement), Buyer acknowledging that time is of the essence in this Agreement. If Buyer fails to close the Escrow for any reason related to Buyer's inability to fully pay the Purchase Price and/or all other sums required under this Agreement or for any other reason other than Seller's default under this Agreement, Buyer will be in default under this Agreement and the provisions of Section 29 of this Agreement shall apply. **If Buyer cash is in the form of hard money or a lender line of credit, Buyer is aware that Seller will not allow for utilities to be turned on prior to Closing.**

25. **Appraisal Contingency.** This Agreement is NOT CONTINGENT upon the Property appraising at no less than the specified Purchase Price.

26. **Occupancy.** Buyer ☐ **intends** ☐ **does not intend** to occupy the Property as Buyer's primary residence.

27. **Casualty Loss.** If any part of the Property is damages or destroyed by fire or other casualty loss, Seller may, but shall not be obligated to, restore the same to its previous condition as soon as reasonably possible, but in any event by the Closing Date. If Seller is unable or unwilling to do so, Buyer may terminate this Agreement and the Earnest Money shall be refunded to Buyer, or Buyer may waive such restoration and purchase the Property on the Closing Date in which latter event the proceeds of any insurance not exceeding the Purchase Price and covering such damages shall be assigned to Buyer.

Seller's insurance is not transferable and will be cancelled at the time of Closing. Seller cannot endorse existing insurance policies to Buyer. Any proceeds from insurance companies for destruction or damage through no fault of the Seller or Buyer shall be retained by the Seller.

**[Check if Applicable]** ☐ If the Property is a Unit and any part of the common element or any unit adjoining the Unit described in Section 2 of this Agreement is damaged or destroyed by fire or other casualty loss, Buyer shall have five (5) days from receipt of notice of such casualty loss within which to notify Seller in writing that this Agreement will be terminated, unless Buyer receives written confirmation from the association that the damaged condition will be restored to its previous condition within a reasonable time at no cost to Buyer. Unless Buyer gives such notice within such time, Buyer has five (5) days from the date of receipt of Buyer's notice within which to cause to be delivered to Buyer such confirmation. If required by Buyer and written confirmation is not delivered to Buyer as required above, Buyer may terminate this Agreement and the Earnest Money will be refunded to Buyer as Buyer's sole and exclusive remedy. NOTICE TO BUYER: CONSULT YOUR INSURANCE AGENT PRIOR TO THE CLOSING DATE DUE TO THE UNIQUE REQUIREMENTS OF THIS TYPE OF PROPERTY.

28. **Possession.** The possession of the Property shall be delivered to Buyer at closing and funding and in its present "AS IS – WHERE IS" CONDITION WITH ALL FAULTS. Occupancy of the Property shall **NOT** be permitted prior to closing and funding. Buyer shall install new locks on the Property immediately after Closing, and Buyer shall hold Seller and Seller's representatives harmless from and indemnify Seller and Seller's representatives against any and all damages, claims, liens, losses, liabilities, costs, injuries, attorney fees and expenses of every kind and nature that may be made against Seller as a result of Buyer's failure to install new locks on the Property.

29. **Default.**

a. If Seller breaches this Agreement, Buyer may terminate this Agreement and thereupon shall be entitled to the immediate return of the Earnest Money as Buyer's sole exclusive remedy and relief hereunder. In no event shall Seller be liable to Buyer for any actual, punitive, consequential or other damages. Buyer and Seller hereby agree that such amount will be liquidated damages for Seller's default because of the difficulty, inconvenience, and uncertainty of ascertaining actual damages.

b. If Buyer breaches this Agreement, Seller shall be entitled to recover the Earnest Money more particularly described in Exhibit B attached hereto and made a part hereof for all purposes, as liquidated damages (and not as

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Buyer's Initials _____ Seller's Initials _____

penalty), or enforce specific performance of this Agreement as Seller's sole and exclusive remedy. Buyer acknowledges that he has reviewed Exhibit B prior to signing this Agreement and agrees to the terms by initialing below.

30. **Attorney's Fee.** Any signatory of this Agreement, Broker or Escrow Agent who is the prevailing party in any legal proceeding brought under or with relation to this Agreement or transaction shall be additionally entitled to recover court costs and reasonable attorney's fees from the non-prevailing parties.

31. **Survival.** All terms and conditions of the Agreement shall survive the Closing.

32. **Effect.** This Agreement may be executed in counterpart originals. This Agreement sets forth the complete understanding of Seller and Buyer and supersedes all previous negotiations, representations and Agreements between them and their agents. This Agreement can only be amended or modified by a written agreement signed by Seller and Buyer.

33. **Captions.** The captions and headings used in this Agreement are for convenience only and do not in any way limit, amplify, or otherwise modify the provisions of this Agreement.

34. **Time of Essence.** Time is of the essence in performance of this Agreement. However, if the final date of any period which is set out in any provision of this Agreement falls on Saturday, Sunday or legal holiday under the law of the United States or the State in which the Property is located, in such event, the time of such period shall be extended to the next day which is not a Saturday, Sunday or legal holiday.

35. **Governing Law.** This Agreement shall be governed by the laws of the State in which the Property is located, and the laws of the United States pertaining to such transactions.

36. **Successors and Assigns.** This Agreement shall bind and insure to the benefit of Seller and Buyer and their respective heirs, executors, administrators, personal representatives, successors and assigns.

37. **Invalid Provision.** If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws, such provisions shall be fully severable, this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision has never comprised a part of this Agreement; and, the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by such illegal, invalid or unenforceable provision or by its severance from this Agreement.

38. **Title Commitment.** Buyer acknowledges that at the time of execution of this Agreement, Broker advised Buyer that Buyer should have the commitment covering the Property examined by an attorney of Buyer's own selection or that Buyer should be furnished with or obtain a policy of title insurance.

39. **Security Deposits.** Buyer acknowledges that Seller has acquired the Property by foreclosure, that Seller may not have in its possession all or any security deposits held by the former owner of the Property and that Seller is not liable to Buyer for any security deposits not delivered to Seller by current tenants or the prior owner of the Property. These agreements shall survive the Closing.

40. **Survival of Indemnification / Defense / Hold Harmless.** Any indemnification, defense or hold harmless obligation of Buyer for the benefit of Seller in this Agreement shall survive the Closing Date and/or termination of this Agreement.

41. **Prohibited Sale.** The directors, officers, agents, employees and family members of any real estate agency, vendor, or the employees of Seller, its affiliates or subsidiaries are strictly prohibited from directly or indirectly purchasing any property owned or managed by Seller.

42. **FINAL AGREEMENT. THIS WRITTEN AGREEMENT REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN AGREEMENTS BETWEEN THE PARTIES.**

43. **Notices.** All notices, demands, and requests which may be given or which are required to be given by either party to the other, hereunder shall be in writing. Such notices shall be deemed delivered when personally delivered to the address of the party to receive such notice set forth below or, whether actually received or not, five (5) days after having been deposited in any post office or mail receptacle regularly maintained by the United States Government, certified or registered mail, return receipt requested, postage prepaid, properly addressed as follows:

If to Seller: If to Buyer:
See Page 1

44. **Consult Your Attorney.** Brokers cannot give legal advice. This is intended to be a legally binding Agreement. READ IT CAREFULLY. If you do not understand the effect of this Agreement, consult your attorney BEFORE signing.

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Buyer's Initials _____ Seller's Initials _____

45. **Assignment.** Buyer MAY NOT assign his right, title or interest in this Agreement. Any attempted assignment by Buyer shall void and shall constitute a material breach of this Agreement. The Seller may assign the Agreement at its sole discretion without prior notice to, or consent of, the Buyer.

46. **Severability / Interpretation.** The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, all of which shall remain in full force and effect.

47. **Full Performance.** Seller's delivery of the Deed to the Property to Escrow Agent shall be deemed to be full performance and discharge of all of Seller's obligations under the Agreement.

48. **Force Majeure. No party shall be responsible for delays or failure of performance resulting from acts of God, riots, acts of war, epidemics, power failures, earthquakes or other disasters, providing such delay or failure of performance could not have been prevented by reasonable precautions and cannot reasonably be circumvented by such party through use of alternate sources, workaround plans or other means.**

49. **Agency and Broker Compensation.** Real Estate Brokers are not parties to the Agreement between Buyer and Seller. Specific Commission Instructions will be provided to Escrow Agent in a separate document provided to the Escrow Agent.

Cooperating Broker: Cooperating brokers (if any) will accept a commission off of the High Bid Price.

50. **Agreement of Parties.** This Agreement contains the entire agreement of the parties and cannot be changed except by their written agreement.

51. **Conditions of Sale.** Buyer acknowledges that Seller obtained the Property by foreclosure, deed-in-lieu of foreclosure, forfeiture or similar process. The Agreement is subject to each of the following conditions: (i) final acquisition of the Property by Seller; (ii) the ability of Seller to provide insurable title; (iii) the mortgage insurance company's approval of the sale; and (iv) if required by Seller, the repurchase of the Property by the prior mortgage servicer from Seller. In the event any of these conditions are applicable, at Seller's option and at Seller's sole discretion, then Seller may notify Buyer that the Agreement is cancelled and the Earnest Money deposit shall be returned to Buyer and Seller shall have no further obligation to sell or convey the Property to Buyer. The final acceptance of the Agreement and the effectiveness thereof is subject to committee approval, which will be provided when Seller's signature is affixed hereon and a fully executed counterpart of the Agreement has been delivered to Buyer.

52. **Point of Sale Inspections.** Buyer acknowledges their responsibility to assume any city point of sale inspection violations and will be responsible for any required repair escrow (if applicable).

53. **No Physical Access.** Notwithstanding anything to the contrary contained in the Agreement, if the Property is occupied by an Occupant or Claimant, neither Buyer nor any agent or representative of Buyer shall have physical access to the Property prior to Closing to conduct inspections or otherwise review the Property.

54. **Lockbox / New Keys.** Buyer acknowledges that the Property may be on a master key system or that third parties, including, but not limited to, an Occupant or Claimant may be in possession of a key, such key will not be provided to Buyer under any circumstance. Buyer must re-key the Property or install new locks unless the Property is occupied by an Occupant or Claimant, in which case Buyer's rights to possession shall be subject to the rights of the Occupant or Claimant. Buyer shall hold Seller, its parent, subsidiaries and affiliates, and the officers, directors, agents and affiliates of each such company harmless from any claims or damages of any nature related to unauthorized access to the Property or any theft or damage that occurs after title to the Property is transferred to Buyer.

**55. Special Provisions.** ____

SAMPLE



Buyer's Initials

Seller's Initials

Executed by Seller _____

**SELLER**

_____
Signature

_____
Printed Name

Executed by Buyer _____ (As used in this Agreement, the term “date of this Agreement” or “date hereof” or “Effective Date” shall mean and refer to the date this Agreement is executed by Buyer.)

**BUYER**

Signature

Printed Name

Signature

Printed Name

☐ No Selling Broker
☐ A Broker represents Buyer

My signature below is my acknowledgment that I will be paid off of the High Bid Amount as my Commission upon closing and funding of the file.

_____
Broker / Agent Signature

_____
Broker / Agent Name

_____
Broker’s Company

_____
Broker’s Address

_____
Broker’s Phone Number

_____
Broker’s Email Address

On behalf of ServiceLink Auction Services, Inc., I receipt the following in Earnest Money to be forwarded to the above referenced Title/Closing Company upon full execution of the Agreement by all parties.

$_____ Cashier’s Check / Certified Funds Check # _____

$_____ Personal / Company Check Check # _____

$_____ Cash

By: _____
ServiceLink Auction Services, Inc.ll Representative

SAMPLE



_____ _____
Buyer’s Initials Seller’s Initials

# EXHIBIT B
## LIQUIDATED DAMAGES PROVISION

If the transaction described in the foregoing Agreement fails to close strictly in accordance with the terms of said Agreement because of the failure to or default of Buyer in the performance of Buyer's obligations in accordance with said Agreement, the Buyer's Earnest Money deposit of $_____ in the possession of the Escrow Agent shall be delivered to and retained by Seller as Seller's sole remedy and right to damages. Seller shall notify Escrow Agent in writing of such failure or default by Buyer and Escrow Agent shall act without any further instruction by any party and is hereby irrevocably instructed to act on such notice or request and shall deliver the Earnest Money Deposit to Seller without any further notice from Buyer.

The parties agree that Seller's actual damages, in the event of the default of Buyer, would be difficult or impossible to determine. Therefore, said deposit has been agreed upon after negotiations as the parties' best estimate of Seller's actual damages. However, this provision shall not limit Seller's right to receive reimbursement for attorneys' fees, nor waive or affect Seller's right and Buyer's indemnity obligations under other sections of this Agreement. The parties acknowledge that the payment of such liquidated damages is not intended as a forfeiture or penalty, but is intended to constitute liquidated damages to Seller. Notwithstanding the foregoing, if Buyer interferes with or makes any attempt to interfere with Seller receiving or retaining, as the case may be, the liquidated damages provided for in this Exhibit B, including without limitation, giving any notice or instructions to Escrow Agent not to deliver the deposit to Seller, Seller shall have the right to elect to recover the greater of its actual damages or the liquidated damages by giving written notice to Buyer and Seller shall have all other rights and remedies against Buyer provided at law and in equity, and Seller shall have the right to require Buyer specifically perform Buyer's obligations under this Agreement.

As material consideration to Seller's entering into this Agreement with Buyer, Buyer expressly waives the (i) remedy of specific performance on account of Seller's default under this Agreement, and (ii) any right otherwise to record or file a notice of pendency of action or similar notice against all or any portion of this Property.

As material consideration to each party's Agreement to the liquidated damages provisions stated above, each party hereby agrees to waive any and all rights, whatsoever to contest the validity of the liquidated damage provisions for any reason whatsoever, including, but not limited to, that such provision was unreasonable under circumstances existing at the time this Agreement was made.

Further, it is hereby understood and between the parties herein that said Agreement will be terminated and the Escrow Agent is hereby released of any and all responsibilities, liabilities, claims to said deposit by Seller and Buyer in releasing said funds.

Acknowledged and agreed by:

| | |
|---|---|
| Date: _____ | Date: |
| **SELLER** | **BUYER** |
| _____ | |
| Signature | Signature |
| _____ | |
| Printed Name | Printed Name |
| | Signature |
| | Printed Name |

SAMPLE



Buyer's Initials _____ Seller's Initials _____