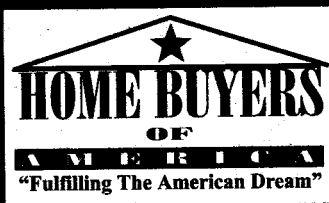


# Mortgage & Finance



# **Mortgage & Finance**

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# ***Financing Instruments***

## **I: Notes And Mortgages**

The purchase of real estate can usually be regarded as a joint venture between an equity investor and a lending institution. Very few occasions arise where properties are bought for all cash. In most real estate transactions a lender provides a part of the financing, and the property is held as security for the debt. There are two instruments involved when a real estate transaction involves both debt and equity — the note and the mortgage.

### **A. Promissory note**

A promissory note is a signed document acknowledging the existence of a debt and promising repayment. The chief function of the note is to make the borrower personally liable for payment of the debt. Once an individual has signed such a note, the terms of the repayment schedule must be met regardless of the financial success of the property.

### **B. Mortgage**

A mortgage is a pledge of security for the repayment of a debt. It is created by formal written agreement in which the person who signs a promissory note pledges the property being financed as security (or collateral) for the debt. Therefore, the mortgage itself is a lien — not evidence of a debt.

#### **1. Parties to the mortgage**

There are two parties in each mortgage, the mortgagor and the mortgagee. The mortgagor is the borrower, or the one pledging the property as security for the debt incurred. The mortgagee is the lender, or the one to whom the property is pledged.

In the process of borrowing money and pledging property as security, the borrower signs a note which is evidence of the debt. Without this evidence, no mortgage can exist. The mortgage is an instrument which creates an interest in property. This interest is a lien, or legal claim, on the mortgagor's property until the debt is paid.

## **2. Mortgage requirements**

Since a mortgage conveys an interest in real estate, it must be in writing. The actual wording of the document may conform to rather broad guidelines, but should contain essentially the same elements as the deed. The basic mortgage should contain the following elements:

- a. The mortgagor's legal name must appear. This implies that the mortgagor is of legal age for contracting.
- b. The mortgagee's name must also appear in the mortgage.
- c. The mortgage must contain words of conveyance or granting from the mortgagor to the mortgagee.
- d. The instrument must contain a legal description of the mortgaged property that adequately identifies it.
- e. Reference is usually made to the promissory note, in lieu of the amount of consideration that is found in a typical deed.
- f. The mortgage must be signed by the mortgagor. Although it is not essential for mortgagees to sign documents, they usually do.

## **II: Mortgage Theory**

### **A. Early mortgage history**

In the early years, a mortgage – property pledged to secure a debt – was an actual assignment of that property to a lender. During the period of time that the mortgagor still owed the mortgagee part of the original loan, the lender had physical use of the land and was entitled to any rents or revenues generated from the land. Thus, in the earlier forms of mortgages, title to the land pledged as security for a loan was truly transferred to the lender.

Abuses on the part of lenders brought about more careful wording in the mortgage instruments. Slight delays in repaying the loan often resulted in “legal default,” with borrowers forfeiting any rights to the recovery of title to their land. An outgrowth of the early experiences of both lenders and borrowers is the current day distinction between the title theory and lien theory of mortgages.

### **B. Lien theory**

Lien theory is a more modern approach to creating loan security and is used in most states. In lien theory states, the lender is considered to hold a lien, rather than title, against the property for security of the debt. A lien is the right to have property sold to satisfy a debt. In the event of default on the promissory note, foreclosure proceedings are initiated, and the title is conveyed

from the borrower to the lender. The mortgage remains with the property until the debt is paid, even if ownership of the property changes.

### **C. Title Theory**

Fewer than 20 states subscribe to this concept of mortgages. In states with title theory, a mortgage is assumed to represent an actual conveyance of title to the mortgagee, and the document is usually called a "mortgage deed." This can be seen as very similar to the early mortgages in which the mortgagee owned legal title and could take possession or collect revenues from the property during the term of the loan. All of the title theory states have adopted one or several approaches to eliminating abuses in such mortgages.

One alternative is to employ what is called intermediate title theory. Although this approach requires formal court action to rescind the borrower's legal rights to the property, the mortgagee can assume possession of the property between the time of default and the sheriff's sale. While this system protects the lender against any property, it also protects the mortgagor from eviction without the legal process.

Another approach requires that foreclosure proceedings must be held, as in lien theory states. This requirement makes these states' mortgage laws equal in borrower protection to that of lien theory states' requirements. The only difference is in the formal wording of the instrument.

### **D. Deeds of Trust**

As mentioned earlier, the typical mortgage involves only two parties, the lender and the borrower. However, in a trust deed, also known as a deed of trust, the borrower conveys the land to a third party. The third party holds the land in trust for the benefit of the holder of the note. The primary reason some states use this form is that the deed of trust can be foreclosed easily and quickly by a trustee's sale under a "power of sale" clause. In prescribed situations, court proceedings may be minimized or eliminated.

## **III: Mortgage Clauses**

In every mortgage loan there are several clauses that state the rights of the mortgagor and the mortgagee during the term of the mortgage loan agreement. The various clauses (or provisions) that may be found in the debt agreement are as follows:

### **A. Acceleration clause**

Lenders usually insist that the instrument contain an acceleration clause that makes the entire debt due in the event of default. This clause precludes the necessity for the lender to bring separate lawsuits against the same mortgagor for each late payment. This clause usually states that if

any covenants are breached, including the obligation to pay the sums secured by the mortgage when due, then the full amount is due immediately. This declaration of full payment due is at the option of the lender.

## **B. Renegotiable rate clause**

A renegotiable rate mortgage (RRM) is a series of short-term loans secured by a long-term mortgage. The short-term loans are automatically renewable at equal intervals of three to five years each. The mortgage term may not exceed 40 years. The monthly payments are made in equal installments. However, at the end of the life of each short-term loan, the interest rate may be changed. Changes are based on the movement of an index such as the Federal Home Loan Bank Board's most recent monthly national average contract mortgage rate index. The interest rate is the only term that may be altered. An interest rate modification results in a change of the monthly payment. The new payment amount remains stable until the loan term has again expired.

## **C. Prepayment Clause**

To prepay means to pay off the indebtedness before the end of the loan term. Under traditional common law, the mortgagor has no right to prepay a mortgage unless the right is explicitly provided by a prepayment clause. In some states statutory law has reversed this. Now, any note that is silent as to the right of the obligor to prepay the note in advance of the stated maturity date may be prepaid in full by the obligor or his successor in interest without penalty.

In typical prepayment clauses a statement is made as to (1) whether there is a penalty for prepayment; (2) whether extra payments directly reduce the principal upon which interest is computed or eliminates the last payment, and (3) whether the number and size of extra payments in any one year are restricted. Some lenders try to discourage a fast turnover of funds, which is costly to them, by imposing prepayment penalties during the early years.

These penalties are usually stated as a percentage of the unpaid balance, and the percentage charge is usually reduced in later years of the mortgage term. Most savings and loan institutions have a prepayment clause in the note. Typically it states that the borrower has the right to prepay the outstanding principal amount in whole or in part and that the outstanding amount of the extra payment is applied against the principal amount. In addition, such clauses usually state that any extra payment does not extend or postpone the due date of subsequent monthly installments, or change the amount of the installments.



## **D. Variable rate clause**

The variable rate mortgage (VRM) ties the interest rate to some specified index of market interest rates. As market rates fluctuate, either the periodic (usually monthly) payment or the loan's maturity would increase or decrease depending on whether the rate went up or down. Until 1980, federally chartered savings and loans were precluded from increasing a loan's monthly payments. However, financial deregulation during the early 1980s freed S&Ls from such restrictions, and they can now make many types of loans in which periodic payments may vary.

## **E. Defeasance clause**

This clause "defeats" the right of the lender to foreclose on the property as long as the borrower lives up to the terms of the agreement. Thus, as long as the borrower makes periodic payments according to schedule and fulfills all other requirements, the lender may not seize the property or have it sold.

## **F. Exculpatory clause**

An exculpatory clause relieves the borrower of personal liability to repay the loan. Thus, if the borrower defaults, the lender can look only to the property foreclosure for recovery of the debt. In effect, the lender may not sue the borrower on the note or obtain a deficiency judgment, if sale of the property at foreclosure does not provide sufficient funds to cover the loan's balance. Obviously, borrowers prefer to negotiate loans with exculpatory clauses, but lenders are usually unwilling to allow them.

Probably the most frequent use of this clause is with investment property involving limited partners. In order for limited partners to claim tax depreciation on the mortgaged portion of a property, the general partners must have no personal liability for the mortgaged loan. This means all partners are considered to be "at risk" for the mortgaged portion of the property, and that the limited partners can claim depreciation on the mortgaged portion. To achieve this arrangement, the mortgage will have an exculpatory clause to relieve the general partners of any personal liability.

## **G. Subordination clause**

A lien holder may consent to place his or her interest in a property at a lower priority than another lien holder, through the use of a subordination clause. A subordination clause is often used when the seller of vacant land takes back a purchase money mortgage. In order to make the sale, the seller agrees to lower the priority of the lien to a position inferior to a construction or permanent loan. Sometimes land owners who lease their land will also subordinate their fee position to a construction or permanent loan obtained by the lessee.

## **H. Release clause**

An acquisition and development loan obtained by a developer may be used to develop a number of building lots. Many such loan agreements contain clauses that allow the developer to release developed lots as security for the loan. In addition, a specified amount is paid back to the lender. Usually the amount that must be paid to obtain a release is greater than the proportionate amount of the loan allocated to the lot. For example, if a developer borrows \$100,000 to develop 10 lots, the release amount might be \$12,000 per lot—\$2,000 more than the amount of loan per lot.

## **I. Cognovit clause**

This clause is considered to be a confession of judgment. If borrowers allow this clause to be included, they in effect give up their right to a day in court. It authorizes the lender's attorney to obtain a judgment lien against the debtor's real property. Without this clause, the lender must sue on the basis of the note and prove it to be in default.

## **J. Escalator clause**

This clause allows the lender to increase the interest rate. Although an escalator clause in its most general sense could allow a lender to increase the rate for any reason, it is usually tied to an event or contingency. For example, if it is discovered that the mortgagor is an investor rather than an owner-occupant. Moreover, it could provide for the interest rate to escalate up to the legal maximum in the event of the borrower's default. An escalator clause does not create a variable rate mortgage in which the interest rate is tied to a market index. Escalator clauses in which the interest rate change is at the discretion of the lender are very unpopular with borrowers. The potential for abuse and unfavorable public relations far outweighs any benefits.

## **K. Open end clause**

Many institutions (particularly savings and loans) write loan agreements that allow a borrower to increase the amount of a loan after the loan balance has been paid down. The loan can usually be increased to the original amount borrowed. While closing costs and loan fees are avoided by using an open end provision, the lender usually reserves the right to adjust the interest rate if the current market rate is higher than the rate on the loan being opened.

## **L. Redemption clause**

Prior to foreclosure, a borrower has the right to pay the amount owed, plus interest, in order to retain the property or interest in the property. This right is called the equity of redemption and is a matter of law, not negotiation. Nevertheless, the right is stated in most mortgages.

## **M. Due-on-sale clause**

Traditional common law permits a buyer to purchase mortgaged property and preserve the existing mortgage unless the mortgage contains a clause to accelerate the loan upon sale. This due-on-sale clause is especially important to lenders in a world of volatile interest rates. Without it, buyers tend to preserve low interest rate mortgages as long as possible by purchasing second mortgage financing rather than refinancing the existing loan.

The clauses discussed in this section are the principal variable provisions found in mortgages or notes. Other provisions that are sometimes used include equity participation and late payment clauses. Depending on the type of lender, each will usually have a standard form that outlines the rights of the lender and the borrower. All borrowers should carefully read these documents before signing. They may contain a clause that is detrimental to their particular needs.

Fortunately for home mortgages, the influence of secondary mortgage market agencies has in recent years encouraged the widespread use of a standard home mortgage contract. This document, promulgated by the Federal Home Loan Mortgage Corporation (FHLMC) and the Federal National Mortgage Association (FNMA), is well crafted to protect the interest of both mortgagor and mortgagee in the typical home loan situation.

## **IV: Types Of Mortgages**

Mortgages may be classified according to several criteria — whether or not they are underwritten by an agency of the U.S. government, method of payment, priority of lien or the purpose of payment for which they were made. The classifications are not mutually exclusive. For example, a package mortgage could be either conventional or government underwritten. Similarly, a participation mortgage could be either fully or partially amortized. Thus the classifications are simply different ways of looking at the same mortgage.

### **A. Government underwritten vs. conventional mortgages**

Government underwritten loans are insured or guaranteed by an agency of the U.S. government. The Federal Housing Administration insures loans made by private lenders to qualified buyers of properties that meet minimum standards. The Veterans Affairs guarantees loans made by such lenders to veterans. A 1% user fee charge is made by the VA for a guarantee. The FHA charges a premium for loan insurance, as described below.

## **1. FHA-insured mortgage**

The Federal Housing Administration was created under the National Housing Act of 1934. Under this act the FHA was granted the authority to insure mortgage loans made by private lenders. It is important to understand that the FHA issues an insurance policy, whose premiums are paid by the borrower, which guarantees that the lenders will receive their money in the event the mortgagors fail to make their payments.

There are several types of FHA mortgage programs including low-income housing, nursing homes, cooperative apartments and condominium apartments. The most common FHA program is for single-family homes as authorized by Title 11, Section 203, of the National Housing Act. Under this program the borrower pays a one-time insurance premium based on several factors. This premium may be financed over the life of the loan if the seller pays the closing costs. The premiums for FHA insurance are deposited in the Mutual Mortgage Insurance Fund. The FHA reimburses a lender from this fund if a borrower defaults, the mortgagor's interest has been foreclosed and the Secretary of HUD has taken title to the property. The FHA then must sell the property.

Lenders will generally loan a higher percentage of the appraised value with an insured mortgage. There may be times when a potential home buyer does not have a sufficient down payment to qualify for a conventional loan. In this case, an FHA-insured mortgage may be appropriate. However, the insurance premium is an added expense to the borrower.

## **2. VA-guaranteed mortgage**

The Veterans Affairs (formerly the Veterans Administration) was created just after World War II as part of the Servicemen's Readjustment Act and was authorized to guarantee a stated percentage of loans made to qualified veterans by qualified lenders.

Although the Veterans Affairs does not normally make loans, in areas where there are no lending institutions, the VA will grant loans directly to veterans. Generally, the VA guarantees loans that are made by lending institutions to veterans. When a borrower defaults, the VA will pay up to 50% of the amount of the loan where the loan is \$45,000 or less. For larger loans the VA will pay any loss up to a maximum of \$22,500 plus 40 cents per additional dollar of the loan over \$45,000, to a total loss limit of \$36,000. Because VA loans are available up to 100% of the selling price, brokers are able to sell homes to veterans who otherwise could not afford to purchase a home. In this case the veteran is entitled to only one VA loan; however, in some cases the loan can be transferred to another eligible veteran, and the original borrower's right to a loan is restored.

### **3. Conventional mortgage**

In recent years, the percentage of FHA and VA mortgages has been decreasing. The majority of mortgages today are conventional. Conventional loans are preferred by lenders for two reasons. First, lenders have the flexibility to create loans that reflect their own requirements. This permits individualized programs that are in the best interest of both parties. Second, more paperwork and red tape are required for loans that are guaranteed or insured, and administrative costs are higher.

Generally, a conventional mortgage requires a larger down payment than an FHA or VA mortgage. In the VA program, the borrower is not allowed to pay points on a new loan. However, the borrower may be required to pay points when refinancing or rolling over. (Points are a discount from the face amount of the loan which increases the yield to the lender.) In conventional and FHA mortgages, borrowers are allowed, and in many cases do, pay loan fees, user fees or discount points.

## **B. Mortgages by method of payment**

### **1. Straight (or straight-term mortgage)**

A loan in which only interest payments are made periodically with the entire amount due at maturity is called a straight (or straight-term) loan. Although such loans are not used frequently to finance the purchase of single-family houses, they are used quite often in land transactions. In these situations, developers will be able to pay for the land after development and sale. In the interim, they pay interest only.

### **2. Standard fixed payment mortgage**

A standard fixed payment mortgage (SFPM) is a fully amortized loan that is completely paid off by equal, periodic payments. This is the standard type of loan used to finance single-family homes today. It is also used sometimes for income-producing properties, although partially amortized loans are used often more frequently to finance these properties. Payments on fully amortized mortgages are usually required monthly. At maturity of the loan, the loan balance is zero.

### **3. Partially amortized mortgage**

If a loan is not completely paid off by equal, periodic payments, but periodic payments are required, it is a partially amortized loan. In other words, the loan will be partially paid off by periodic payments, but there will be a remaining balance on the loan which must be paid off at maturity. This remaining balance on a partially amortized loan is called a balloon and is satisfied by a balloon payment.

## **C. Mortgages by payment or yield variability (AMLs, GPMs and SAMS)**

### **1. Adjustable mortgage loan (AML)**

In 1981 the Federal Home Loan Bank Board issued regulations incorporating both variable and renegotiable rate mortgages into adjustable mortgage loan regulations. "An adjustable mortgage loan (AML) permits adjustment of the interest rate, which may be implemented through changes in the payment amount, the outstanding principal loan balance, the loan term, or any combination of these variables." (FHLBB Res. No. 8-12069 1981.) As with VRMs and RRMS, interest rates must be decreased as the index decreases, and of course may be increased as the index rises. The lender may increase the loan term up to 40 years to cover interest rate increases (although such an extension is not an option that must be offered to borrowers).

The interest rate may be tied to any index beyond the control of the lender and may be adjusted as often as monthly. Examples of indexes to which an AML may be tied are (1) the FHLB District cost of funds to FSLIC-insured savings and loans; (2) the national average contract mortgage rate for the purchase of existing home; (3) the monthly average of weekly auction rates on three-month or six-month U.S. Treasury bills, and (4) the monthly average yield on U.S. Treasury securities adjusted to constant maturities of one, two, three or five years. All of these indexes are published in the Federal Reserve Bulletin.

Notice of interest rate changes must be given to borrowers at least 30 days, but no more than 45 days, prior to the change. Lenders may not charge a prepayment penalty or fee associated with interest rate changes.

Within these regulations and guidelines, lenders may establish their own AML plans. However, administrative costs, competition and secondary market requirements limit flexibility for most lenders' in this regard.

Frequent adjustments are costly. Competitors may limit the frequency and magnitude of adjustments. And secondary market lenders have established certain limitations for the AMLs they will purchase. For example, the Federal Housing Loan Mortgage Corporation will not purchase AMLs that allow rising balances or that have a subsidized payment ("buy down") in the early months.

### **2. Graduated payment mortgage**

In a graduated payment mortgage (GPM), the payments begin at a lower level than in a comparable standard fixed payment mortgage. They gradually rise to an amount greater than the payment in the standard fixed payment mortgage. After the period for payment increases ends, the payments for the remaining term are fixed.

In the early years of a GPM loan, interest accrues at a higher rate than is actually paid. The unpaid interest is added to the principal balance. This is called negative amortization because the remaining balance is increasing rather than decreasing.

There are several plans for FHA-insured GPMs under Section 245 of the National Housing Act. The approved plans are:

Plan I: Payments rise 2.5% annually for five years.

Plan II: Payments rise 5% annually for five years.

Plan III: Payments rise 7.5% annually for five years.

Plan IV: Payments rise 2% annually for 10 years.

Plan V: Payments rise 3% annually for 10 years.

### **3. Shared appreciation mortgage**

A shared appreciation mortgage (SAM) allows a lender to charge a below-market periodic interest rate by sharing in the property's sale proceeds at time of sale or upon maturity of the loan. The payment to the lender upon maturity or sale is termed contingent deferred interest. The percentage share of the property's appreciation the lender will receive is established in the loan agreement.

While there have been numerous advocates of SAM home loans, no large-scale program has been implemented. One cause of this is home appreciation is geographically correlated with income and ethnic/racial characteristics; therefore, the loan could be inherently discriminatory. A second cause is typical terms do not return a competitive yield to lenders. In income property lending, however, the SAM idea is used as one form of a "participation" mortgage loan.

## **D. Mortgages by purpose**

Mortgage forms vary in their payback provisions, terms of agreement, and the types of property used as security. Some are created to achieve specific purposes or to fit the need of the individual borrower. The types of mortgages classified according to purpose are as follows:

### **1. Purchase money mortgage**

The distinguishing characteristic of a purchase money mortgage is that the title and the mortgage are conveyed in the same transaction. The loan involved could be from a third party, and it could be a first mortgage loan. However, typically the purchase money mortgage is a second mortgage given by the seller to the buyer to partially finance the purchase through installment payments.

Purchase money mortgages are common in all types of real estate purchases. In the purchases of raw land in large quantities by a developer, the landowner may accept a partial cash payment and take a mortgage for the remainder of the selling price. As the developer sells lots from the completed subdivision, the mortgage is paid off. In effect, the landowner is a partner with the developer through the use of a purchase money mortgage.

Purchase money mortgages are also common in transactions involving residential properties, such as when the buyer does not have a sufficient down payment. The remainder may be obtained by assuming an existing mortgage or giving the seller a new mortgage. Either way, the seller is willing to take a mortgage as part of the payment.

Consider the following example to illustrate the use of a purchase money mortgage in residential properties. Seller A is asking \$80,000 for a single-family residence. Buyer B likes the house but only has \$10,000 for a down payment. The lending institution will only loan \$64,000 on the house. To be able to sell the house, Seller A agrees to take a purchase money mortgage for \$6,000 from Buyer B. In addition to taking this purchase money mortgage, Seller A is willing to accept a lower priority of claim if Buyer B should default. In this case, the lending institution has the first claim because it has a first mortgage. The purchase money mortgage is a second mortgage.

## **2. Participation Mortgage**

A participation mortgage is a loan agreement that provides for a lender to receive part of the income from an investment in addition to the interest payments. Participation mortgages became popular during periods of high interest rates and are used by lenders to increase their yields. The participation feature enables them to share in the expected success of income-producing properties. It also, protects the borrower from abnormally high payments, if income projections are not realized. The participation can be a specified percentage of gross or net income, a share of proceeds at sale, or both.

The use of a closely related term, mortgage participation, occurs when the two or more lending institutions combine their funds to finance a real estate project. For example, a lender does not want the risk of a project of the magnitude for which an investor is seeking a loan. In this case the "primary" lender may call upon another lender to "participate" in this loan, thereby creating a participation. For example, an investor needs \$100 million to purchase a large hotel complex. The lending institution to which the developer applies for a loan may not be able to lend that much money. By obtaining one or more "participants," the original lender is able to obtain the money needed for the investor. In return, all lenders receive evidence of debt from the borrower, as well as an instrument pledging the property as security for each lender's note.

## **3. Blanket mortgage**

A blanket mortgage covers more than one parcel of land. Developers of subdivisions employ this type of mortgage, which permits small portions of the land (residential lots) to be paid off and released from the mortgage. This clause is known as a release clause, since the remainder of the land continues to be held as security for the loan. The percentage of the original mortgage that is released is usually smaller than the pro rata dollar amount. For example, the developer has a note for \$100,000 on a subdivision with 20 lots. The lender will usually require more than 1/20th of the mortgage dollar amount to be paid before one lot is released.



#### **4. Reverse annuity mortgage**

The reverse annuity mortgage was conceived as a way to enable older homeowners to liquidate and consume the equity "locked up" in their home. As the name suggests, in its simplest form the homeowner would receive a regular disbursement from the lender, secured by a mortgage. The regular disbursements and interest accruing against them accumulate eventually to some maximum loan balance.

The major problem with this simple RAM is that the homeowner may outlive the time when the maximum loan is reached. While various solutions to this risk are being explored, there is yet to be a significant use of the RAM in the United States. Prudence requires that the loan be made to a homeowner late in life, and for a fairly small percentage of the property's.

#### **5. Package mortgage**

A package mortgage allows home buyers to pledge household items of personal property, in addition to the real estate, as security for a loan. For instance, lending institutions may allow items such as ranges, refrigerators, dishwashers or air conditioners to serve as security, thereby allowing the home buyer to finance major appliances over the term of the loan at relatively low mortgage interest rates. This practice allows lenders to increase the amount of a loan with no added administrative costs and little additional risk. It allows buyers to purchase home appliances and other major items of equipment they may otherwise might not be able to afford.

#### **6. Home equity credit line loan**

By far the fastest growing form of mortgage loan in recent years has been the credit line home loan. It is a second mortgage loan that permits any number of draws or balance reductions, subject to a maximum of 75% to 80% of house value, including the first mortgage loan. The monthly payment typically is the greater of a fixed percentage of the current balance, usually 1½% to 2%, or a modest dollar minimum. The interest rate is variable, usually prime (or another short term interest rate) plus one and a half to two percent. Draws against the mortgage usually are by check, though in some cases credit cards access the credit line.

### **E. Mortgages by priority of lien**

#### **1. First mortgage**

A first mortgage is the mortgage instrument that creates the first lien on a property.

As explained in the purchase money mortgage example, the holder of the note secured by the first mortgage will have its claims satisfied before any subsequent mortgagees.

## **2. Junior mortgage**

Any mortgage that is not a first mortgage is “junior” to the first mortgage. This means that, in case of default, the claims of the holder of a note secured by a second mortgage or lower priority mortgage will not be satisfied until the first mortgage is satisfied. Because of the subordinated nature of these mortgages, they carry a higher level of risk. With the addition of greater risk, lenders generally charge a higher interest rate.

## **V: Transferring Mortgaged Property**

In the transfer of mortgaged property, two situations typically arise: (1) the mortgagor sells the property, or (2) the mortgagee sells the mortgage. When the mortgagor sells the property, the buyer may take the property “subject to” the mortgage, or the buyer may “assume” the mortgage. When the mortgagee sells its mortgage interest, the sale must be by “assignment.”

### **A. Transfer of property subject to mortgage**

When a buyer obtains property subject to a mortgage, the buyer realizes the existence of the mortgage. As long as the buyer makes the mortgage payments, no problems arise. Suppose, however, that the buyer defaults. The seller is still liable for the debt and may elect to make the payments. If the seller does not make the payments, however, the lender will foreclose and the property will be sold. If the sale price is not adequate to pay off the debt, the seller, not the buyer, is liable for the deficiency.

### **B. Mortgage assumption**

When a buyer assumes a mortgage, the buyer covenants and promises to pay any deficit that might occur from a subsequent default. Therefore, if the buyer goes into default, and after the foreclosure sale there is still money owed on the debt, then both the buyer and the seller may be held responsible for the deficit.

### **C. Mortgage assignment**

A mortgage assignment occurs when a mortgagee sells a mortgage. The assignment is a brief form stating that the mortgagee, the assignor, transfers and assigns the mortgage and mortgage note to the purchaser, the assignee. Prior to the assignment, the assignee should give the mortgagor written notice of the assignment. The assignee should also, prior to the assignment, obtain a certificate of estoppel from the mortgagor. The certificate of estoppel is a written document stating the balance due on the debt and all defenses or claims against the mortgagee.

## **D. Default and foreclosure**

### **1. Default**

Default is defined as the nonperformance of a duty or obligation, whether arising under a contract or otherwise, such as the failure to make payment called for by a note. Default can also occur if the mortgagor fails to pay taxes, insurance premiums or otherwise breaches any of the covenants in the mortgage instrument.

Default does not necessarily lead to foreclosure. After default occurs, lenders usually try to avoid foreclosing. Foreclosure action usually arises only after default has occurred and the mortgagee decides there is no hope of collecting the amount owed through normal negotiation with the borrower.

### **2. Foreclosure**

#### **a. Public sale**

If a borrower defaults on a secured loan, the mortgagee must bring foreclosure action to eliminate the mortgagor's interest in the property. In most states, the preferred method of foreclosure is by public sale. The proceeds of the sale are then applied to the indebtedness. When the property sells for more than the debt, the mortgagor receives the balance, saving at least some of the investment.

#### **b. Deficiency judgment**

When a foreclosed property sells for less than the debt, the mortgagee must look to the note for the remainder of the debt. To do this the mortgagee first obtains a deficiency judgment against the signatories to the note and then attempts to collect against their personal assets.

#### **c. Junior lien holders**

When foreclosure begins, all junior lien holders should join in the suit. If the property sells for less than the debt, the junior lien holders can sue the mortgagor on the note. If the property sells for more than the debt, the junior lien holders are paid off out of the surplus in order of their priority, with the mortgagor receiving the balance. The purchaser of the property then receives the property free and clear of the first lien (which was foreclosed) and all liens junior to it.

The only exception to this involves real estate taxes. All real estate tax liens must be paid from the foreclosure sale, or the property passes to the purchaser subject to all unpaid taxes. The purchaser must then pay the remaining taxes due or lose the property.

#### **d. Soldiers and Sailors Relief Act**

The Soldiers and Sailors Relief Act affects mortgages in several ways. One provision states that the court in which foreclosure action appears has the right to stop proceedings in which a civilian mortgagor, after induction to the military, is unable to comply with the mortgage agreement. For example, a mortgagor might be unable to meet his payments due to a reduction of income after entering the military. Another provision states that the mortgagee can collect a maximum of 6% interest while the mortgagor is in the military, unless the mortgagor's ability to pay is not affected by his military status.

# Rental Application

Name \_\_\_\_\_ Date of Birth \_\_\_\_\_

Home Phone \_\_\_\_\_ Work Phone \_\_\_\_\_

Social Security # \_\_\_\_\_ Driver's License # \_\_\_\_\_

Present Address \_\_\_\_\_

How long at this address? \_\_\_\_\_ Rent \$ \_\_\_\_\_

Reason for moving \_\_\_\_\_

Owner/Manager \_\_\_\_\_

Previous Address \_\_\_\_\_

How long at this address? \_\_\_\_\_ Rent \$ \_\_\_\_\_

Reason for moving \_\_\_\_\_

Name, relationship and age of every person who lives with you

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

Any pets? \_\_\_\_\_ Describe \_\_\_\_\_

Waterbed? \_\_\_\_\_

Present Occupation \_\_\_\_\_

Employer \_\_\_\_\_ Phone \_\_\_\_\_

Supervisor \_\_\_\_\_ Phone \_\_\_\_\_

How long with this employer? \_\_\_\_\_

Previous Occupation \_\_\_\_\_

Employer \_\_\_\_\_ Phone \_\_\_\_\_

Supervisor \_\_\_\_\_ Phone \_\_\_\_\_

How long with this employer? \_\_\_\_\_

Current gross income per month (before deductions) \$ \_\_\_\_\_

Amount of alimony or child support you pay: \$ \_\_\_\_\_

Receive: \_\_\_\_\_ \$

Savings Account Bank \_\_\_\_\_

Branch \_\_\_\_\_ Account No. \_\_\_\_\_

Checking Account Bank \_\_\_\_\_

Branch \_\_\_\_\_ Account No. \_\_\_\_\_

Major Credit Card \_\_\_\_\_ Account No. \_\_\_\_\_

Credit Reference \_\_\_\_\_ Account No. \_\_\_\_\_

Balance Owed \_\_\_\_\_ Payment \_\_\_\_\_

Have you ever filed bankruptcy? \_\_\_\_\_

Have you ever been evicted? \_\_\_\_\_

Vehicles(s):

Make \_\_\_\_\_ Model \_\_\_\_\_ Year \_\_\_\_\_  
Make \_\_\_\_\_ Model \_\_\_\_\_ Year \_\_\_\_\_

Personal Reference: Name \_\_\_\_\_

Address \_\_\_\_\_ Phone \_\_\_\_\_

Contact in Emergency: Name \_\_\_\_\_

Address \_\_\_\_\_ Phone \_\_\_\_\_

I declare that the statements above are true and correct, and I hereby authorize verification of references given and a credit check.

Date \_\_\_\_\_ Signature \_\_\_\_\_

**Rental Application Deposit Receipt**

This deposit of \$ \_\_\_\_\_ is refundable upon the following conditions:

1. Prospective tenant is not approved.
2. If approved, it may be applied to rent.

If the prospective tenant cancels after landlord has taken the time, expense and trouble to check the tenant, the deposit is NOT refundable; landlord will keep the deposit to pay for time and trouble.

Prospective Tenant	_____
Landlord/Agent	_____
(Date Refunded)	_____
Prospective's Signature	_____
Money Received	_____

# Foreclosure Analysis

## IV. Purchase Cost Estimate

Date of written offer: \_\_\_\_\_

Contingency deadline: \_\_\_\_\_

Asking price: \$ \_\_\_\_\_

Offer: \$ \_\_\_\_\_

Comps: 1. \$ \_\_\_\_\_

\$ 2. \$ \_\_\_\_\_

3. \$ \_\_\_\_\_

Earnest

Form: \_\_\_ck. \_\_\_IOU

Settlement

Date: \_\_\_\_\_

### Financing Proposed

	Monthly Payment	Total Debt	Terms
1st Mortgage	\$ _____	\$ _____	yrs. _____% int.
___ FHA ___ VA ___ Conv.			
2nd Mortgage	\$ _____	\$ _____	yrs. _____% int.
___ Seller financing			
___ Commercial			
___ Investor			
3rd Mortgage	\$ _____	\$ _____	
<b>Total Financing</b>		\$ _____	\$ _____

### Cash Requirements

Down payment (include earnest money) \$ \_\_\_\_\_

### Acquisition Costs

Points	\$ _____
Attorney fees	\$ _____
Title Insurance	\$ _____
Recordation/transfer costs	\$ _____
Termite	\$ _____
Insurance (fire/hazard)	\$ _____
Escrow	\$ _____
Other: _____	\$ _____
_____	\$ _____
<b>Subtotal</b>	\$ _____

### Delinquencies, Liens and Foreclosures

_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

### Fix-Up Cost Estimate

_____	\$ _____
_____	\$ _____
_____	\$ _____
<b>Subtotal</b>	\$ _____

Estimated Cash Requirement \$ \_\_\_\_\_

Purchase Cost Estimate \$ \_\_\_\_\_

30-Day Quick Resale \$ \_\_\_\_\_ (A)

Equity \$ \_\_\_\_\_ (B)

% Equity to Value (B/A) \_\_\_\_\_%

# Property Evaluation Form

## Market Value Analysis

### Property Being Considered

**Part I** Date \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Owner \_\_\_\_\_ Phone \_\_\_\_\_

Agent \_\_\_\_\_ Phone \_\_\_\_\_

Listing Price \$ \_\_\_\_\_

Original Terms \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

# or Weeks on market \_\_\_\_\_

### Part II

#### Comparables

	Address	Date Sold	# Weeks on Mkt.	Listing Price	Selling Price	# of Bdrms	# of Baths	Square Ft.
1.	_____	_____	_____	_____	_____	_____	_____	_____
2.	_____	_____	_____	_____	_____	_____	_____	_____
3.	_____	_____	_____	_____	_____	_____	_____	_____
4.	_____	_____	_____	_____	_____	_____	_____	_____
5.	_____	_____	_____	_____	_____	_____	_____	_____
Totals:				\$ _____	\$ _____			
Average:				\$ _____				
Avg. SP/SF:				\$ _____				

Comments 1. \_\_\_\_\_

Comments 2. \_\_\_\_\_

Comments 3. \_\_\_\_\_

Comments 4. \_\_\_\_\_

Comments 5. \_\_\_\_\_

#### Instructions:

The real market value of a property is determined by the average selling price of three to five properties in the same area sold during the past year. First, total the listing prices and selling prices of your comparables in lines one through five. Next, divide these totals by the number of properties on your list to determine the average listing and selling prices. The average selling price is the real value of the property you are considering and your maximum possible offer. Use a copy of this form for each property you wish to evaluate.



# Cash Requirement Costs Worksheet

Total Owed

## Acquisition Costs

Title search/Survey \$ \_\_\_\_\_  
 Title insurance \$ \_\_\_\_\_  
 Attorney \$ \_\_\_\_\_  
 Termite \$ \_\_\_\_\_  
 Appraisal \$ \_\_\_\_\_  
 Inspection \$ \_\_\_\_\_  
 Fire insurance \$ \_\_\_\_\_  
 Taxes/recording \$ \_\_\_\_\_  
 Loan costs \$ \_\_\_\_\_  
 Closing costs \$ \_\_\_\_\_

## Delinquencies

\_\_\_\_\_ \$ \_\_\_\_\_  
 \_\_\_\_\_ \$ \_\_\_\_\_  
 \_\_\_\_\_ \$ \_\_\_\_\_  
 \_\_\_\_\_ \$ \_\_\_\_\_

## Foreclosure Costs

\_\_\_\_\_ \$ \_\_\_\_\_  
 \_\_\_\_\_ \$ \_\_\_\_\_  
 \_\_\_\_\_ \$ \_\_\_\_\_  
 \_\_\_\_\_ \$ \_\_\_\_\_

## Holding Costs

1st PITI \_\_\_\_\_ (months) \_\_\_\_\_  
 2nd PI \_\_\_\_\_ (months) \_\_\_\_\_  
 3rd PI \_\_\_\_\_ (months) \_\_\_\_\_  
 Utilities \_\_\_\_\_  
 HOA \_\_\_\_\_  
 Other \_\_\_\_\_

## Resale Costs

Realtor's Commission \_\_\_\_\_ %  
 Attorney Fees \_\_\_\_\_  
 Transfer/Closing \_\_\_\_\_

Estimated Cash Requirement \$ \_\_\_\_\_

# FSBO Contact Questionnaire

(When calling, say your name and "I'm a real estate investor.")

Address \_\_\_\_\_ Telephone \_\_\_\_\_

Seller's Name \_\_\_\_\_ Price \_\_\_\_\_  
["How firm is your price?"]

1st Mortgage \$ \_\_\_\_\_ Interest Rate \_\_\_\_\_ % Payment \$ \_\_\_\_\_  
["Is mortgage assumable? Qualifying or non-qualifying?"] ["PI or PITI?"]

Type \_\_\_\_\_

2nd Mortgage \$ \_\_\_\_\_ Interest Rate \_\_\_\_\_ % Payment \$ \_\_\_\_\_  
["Is mortgage assumable? Qualifying or non-qualifying?"] ["PI or PITI?"]

Type \_\_\_\_\_

Type of House \_\_\_\_\_ Age \_\_\_\_\_ # Bedrooms \_\_\_\_\_

[1 story, 2 story, brick, frame, stucco, etc.] # Baths \_\_\_\_\_ Sq. Ft. Living Area \_\_\_\_\_

Why? ["Just out of curiosity, why are you selling your house?"] \_\_\_\_\_

How much? ["How much cash do you really need the day we close?"] \_\_\_\_\_

What? ["What are you going to do with the money?"] \_\_\_\_\_

When? ["When do you need to move?"] \_\_\_\_\_

## Comments

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

## Comparables

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

# Purchase Offer Worksheet

## Mortgage Debt

1st \$ \_\_\_\_\_  
2nd \$ \_\_\_\_\_  
3rd \$ \_\_\_\_\_

## Unsecured Debt

\_\_\_\_\_ \$ \_\_\_\_\_  
\_\_\_\_\_ \$ \_\_\_\_\_  
\_\_\_\_\_ \$ \_\_\_\_\_  
Sub-total \$ \_\_\_\_\_

Cash Requirement Estimate \$ \_\_\_\_\_  
(see separate analysis)

Total Estimated Costs \$ \_\_\_\_\_

30-Day Quick Resale Value \$ \_\_\_\_\_

Profit to Buyer/Investor \$ \_\_\_\_\_

Equity Payment to Seller \$ \_\_\_\_\_

## NOTES:

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

# Property Information Form

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Purchase Price: \_\_\_\_\_  
# Bedrooms: \_\_\_\_\_  
# Baths: \_\_\_\_\_  
Appliances: \_\_\_\_\_

1st Mortgage: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Due Date: \_\_\_\_\_  
Amount: \_\_\_\_\_  
Acct. #: \_\_\_\_\_

2nd Mortgage: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Due Date: \_\_\_\_\_  
Amount: \_\_\_\_\_  
Acct. #: \_\_\_\_\_

3rd Mortgage: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Due Date: \_\_\_\_\_  
Amount: \_\_\_\_\_  
Acct. #: \_\_\_\_\_

Association  
Information \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Due Date: \_\_\_\_\_  
Amount: \_\_\_\_\_  
Acct. #: \_\_\_\_\_

## Loan Information:

Type of Loan: \_\_\_\_\_  
Late Charge: \_\_\_\_\_  
1st Balloon Date: \_\_\_\_\_  
2nd Balloon Date: \_\_\_\_\_  
3rd Balloon Date: \_\_\_\_\_

## Financial Information:

Taxes: \$ \_\_\_\_\_  
Interest: \$ \_\_\_\_\_  
Escrow Balance: \$ \_\_\_\_\_  
Cash Investment: \$ \_\_\_\_\_  
Adjusted Basis: \$ \_\_\_\_\_  
Date Closed: \_\_\_\_\_  
Principal Balance: \$ \_\_\_\_\_  
Other Expenses: \$ \_\_\_\_\_  
Depreciation Used: \$ \_\_\_\_\_

Insurance Information: \_\_\_\_\_  
Company: \_\_\_\_\_  
Agent: \_\_\_\_\_  
Premiums: \$ \_\_\_\_\_  
Policy #: \_\_\_\_\_  
Renewal date: \_\_\_\_\_

## Agreement For Deed

Articles of Agreement, Made this {\_\_\_\_1\_\_\_\_} day of {\_\_\_\_2\_\_\_\_}, between {\_\_\_\_3\_\_\_\_}, party of the first part, and {\_\_\_\_4\_\_\_\_}, party of the second part.

WITNESSETH, That if the said party of the second part shall first make the payments and perform the covenants hereinafter mentioned on his part to be made and performed, the party of the first part hereby covenants and agrees to convey and assure to the said party of the second part, in fee simple, clear of all encumbrances whatever, by a good and sufficient deed, the real property described as follows, to wit: {\_\_\_\_5\_\_\_\_}

and the said party of the second part hereby covenants and agrees to pay the said party of the first part the sum of \${\_\_\_\_6\_\_\_\_} in the manner following:

with interest at the rate of {\_\_\_\_7\_\_\_\_}% per annum, payable monthly on the whole sum remaining from time to time unpaid; and to pay all taxes, assessments or impositions that may be legally levied or imposed upon said land subsequent to the current year, and to keep the building upon said premises insured with some company satisfactory to the party of the first part in a sum not less than \${\_\_\_\_8\_\_\_\_} during the term of this agreement. And in the case of the failure of the said party of the second part to make either of the payments or any part thereof, or to perform any of the covenants on his part hereby made and entered into, this contract shall, at the option of the party of the first part, be forfeited and terminated and the party of the second part shall forfeit all payments made by him on this contract; and such payments shall be retained by the said part of the first part in full satisfaction and liquidation of all damages by it sustained and the party of the first part shall have the right to re-enter and take possession of the premises aforesaid without being liable to any action therefor.

**IT IS MUTUALLY AGREED** by and between the parties hereto, that the time of payment shall be an essential part of this contract and that all covenants and agreements herein contained shall extend to and be obligatory upon the heirs, executors, administrators and assigns of the respective parties.

**IN WITNESS WHEREOF**, The parties to these presents have hereunto set their hands and seals the day and year first above written.

Signed, Sealed and Delivered in our Presence:

\_\_\_\_\_  
Witness for Seller

\_\_\_\_\_  
Witness for Seller

\_\_\_\_\_  
Witness for Purchaser

\_\_\_\_\_  
Witness for Purchaser

STATE OF \_\_\_\_\_ COUNTY OF \_\_\_\_\_

Before me personally appeared \_\_\_\_\_, to me well known and known to me to be the individual described in and who executed the foregoing instrument, and acknowledged before me that it was executed for the same for the purposes therein expressed.

WITNESS my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

\_\_\_\_\_  
My Commission Expires:

## Contract For Sale And Purchase

**PARTIES:** { \_\_\_\_ 1 \_\_\_\_ }, as "Seller", and { \_\_\_\_ 2 \_\_\_\_ }, as "Buyer", hereby agree that the Seller shall sell and Buyer shall buy the

### I. DESCRIPTION:

a) Legal description of real estate "Property":

{ \_\_\_\_ 3 \_\_\_\_ }

b) Street address, if any of the Property being conveyed is:

{ \_\_\_\_ 4 \_\_\_\_ }

c) Personal property including all buildings and improvements on the property and all right, title and interest of Seller in and to adjacent streets, roads, alleys and rights-of-way, and:

{ \_\_\_\_ 5 \_\_\_\_ }

### II. PURCHASE PRICE \$ { \_\_\_\_ 6 \_\_\_\_ }

#### PAYMENT:

a) Cash Deposit(s) to be held in escrow by { \_\_\_\_ 7 \_\_\_\_ } in the amount of \$ { \_\_\_\_ 8 \_\_\_\_ } and promissory note to be held in same escrow as additional earnest Buyer's default in the amount of \$ { \_\_\_\_ 9 \_\_\_\_ }

b) Assumption of Mortgage in favor of { \_\_\_\_ 10 \_\_\_\_ } bearing interest at { \_\_\_\_ 11 \_\_\_\_ } % per annum and payable as to principal and interest \$ { \_\_\_\_ 12 \_\_\_\_ } per month, having an approximate present principal balance of \$ { \_\_\_\_ 13 \_\_\_\_ }.

c) Purchase money mortgage and note bearing interest at { \_\_\_\_ 14 \_\_\_\_ } % on terms set forth herein below, in the principal amount of \$ { \_\_\_\_ 15 \_\_\_\_ }

d) Other:

e) Balance to close, (U.S. Cash, certified or cashier's check) subject to adjustments and prorations \$ { \_\_\_\_ 16 \_\_\_\_ }

**TOTAL \$ { \_\_\_\_ 17 \_\_\_\_ }.**

### III. SURVEY & TITLE COMMITMENT; PERMITTED EXCEPTIONS.

a) Preliminary Title Report. Within twenty days from the date hereof, Seller, at Purchaser's sole cost and expense, shall cause a title insurance company ("Title Company") to issue and deliver to Purchaser an ALTA Form B title commitment ("Title Commitment") in the full amount of the Purchase Price of the real estate. Purchaser shall pay the premium for the policy at or before the closing as set forth herein. In the event title is found to be unmerchantable because of title defects, Purchaser or his attorney shall notify the Seller or its attorney in writing within five days of the date of receipt of said Title forth herein. In the event title is found to be unmerchantable title to the property and Seller shall have a period of one hundred twenty days after receipt of such written notice within which to cure said defects in title and this sale shall be closed within ten days after written notice of such curing. Upon

Seller's failure to cure defects of which written notice has been given, within the time limit aforesaid, the deposit this day paid shall be returned and all rights and liabilities arising hereunder shall terminate, or Purchaser may close this transaction in the same manner as if no title defects had been found.

b) Survey. If the Purchaser desires a survey of the Property, it may have the Property surveyed at its expense prior to the closing date. If the survey shows encroachments on the Property herein described, or that the improvements located on the Property herein described encroach on other lands, written notice of that effect shall be given to the Seller and Seller shall have the same time to remove such encroachments as is allowed under this Agreement for the curing of defects of title (see Section III a) herein. If the Seller shall fail to remove or cure said encroachments within the period of time, then the deposit this day paid shall be returned to Purchaser and all rights and liabilities arising hereunder shall terminate, or Purchaser may close this transaction in the same manner as if no defects had been found.

#### **IV. PROVISIONS WITH RESPECT TO CLOSING.**

a) Closing Date. The consummation of the transaction contemplated by this Agreement ("Closing") shall take place at such place as designated by Seller on or before { \_\_\_\_ 18 \_\_\_\_ }, or at such earlier date as agreed mutually, unless extended by other provisions hereof.

b) Seller's Obligation at Closing. At closing, Seller shall do the following:

Execute, acknowledge, and deliver to Purchaser a Warranty Deed conveying the Property to Purchaser subject to:

- (i) taxes and assessments for year of closing and subsequent years;
- (ii) restrictions, easements and zoning ordinances of record, if any;
- (iii) Public utility easements of record, if any;
- (iv) Mortgage to be assumed as described above; Any variance in the amount of said mortgage from the amount stated herein shall be added to or deducted from either the cash payment or the second mortgage as the Seller may elect.
- (v) Other:

c) Purchaser's Obligations at Closing. Subject to the terms, conditions and provisions hereof, and concurrently with the performance by Seller of its obligations set forth in Section IV b) above, Purchaser shall deliver to Seller cashier's check or other immediate local funds in the amount set forth in Section II of this Agreement.

d) Closing Costs: Seller shall pay the following costs and expenses in connection with the Closing:

- (i) Documentary stamps which are required to be affixed to the Warranty Deed;

Purchaser shall pay the following costs and expenses in connection with the closing:

- (i) The intangible tax required by law on the mortgage.
- (ii) All recording costs, including recording of the deed, mortgage, and any documents required in connection with the title insurance commitment.
- (iii) The premium payable for the title commitment and title policy issued pursuant thereto.
- (iv) Survey work.

e) Proration of Taxes. Taxes for the year of the Closing shall be prorated to the date of Closing. If the Closing shall occur before the tax rate is fixed for the then current year, the apportionment of taxes shall be upon the basis of the tax rate of the preceding year applied to the latest assessed valuation.

#### V. PROVISIONS WITH RESPECT TO DEFAULT.

a) Default by Purchaser. If Purchaser fails to perform this Agreement, the deposit this day paid by Purchaser as aforesaid shall be retained by or for the account of Seller as consideration for the execution of this Agreement. In such event the parties agree that said sum shall constitute liquidated damages since both Purchaser and Seller agree that actual damages for default or breach of contract could not readily be ascertained at the date of execution of this Agreement.

b) Default by Seller. If Seller fails to perform this Agreement, the aforesaid deposit shall be returned to Purchaser and this shall be the sole remedy of Purchaser under this Agreement.

#### VI. OTHER CONTRACTUAL PROVISIONS.

a) Notices. Any notice to be given or to be served upon any party hereto, in connection with this Agreement, must be in writing, and may be given by certified mail and shall be deemed to have been given and received when a certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States Mail; and if given otherwise than by certified mail, it shall be deemed to have been given when delivered to and received by the party to whom it is addressed. Such notices shall be given to the parties hereto at the addresses stated above.

Any party hereto may, at any time by giving five days' written notice to the other party hereto, designate any other address in substitution of the foregoing address to which such notice shall be given and other parties to whom copies of all notices hereunder shall be sent.

b) Assignability. The Purchaser is prohibited from assigning all or any part of this Agreement.

c) Entire Agreement; Modification. This Agreement embodies and constitutes the entire understanding between the parties with respect to the transaction contemplated herein. All prior or contemporaneous agreements, understandings, representations, and statements, oral or written, are merged into this Agreement. Neither this Agreement nor any provision hereof may be waived, modified, amended, discharged, or terminated except by an instrument in writing signed by the party against which the enforcement of such waiver, modification, amendment, discharge or termination is sought, and then only to the extent set forth in such instrument.

d) Applicable Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of { \_\_\_\_19\_\_\_\_ }

e) Headings. Descriptive headings are for convenience and shall not control or affect the meaning or construction of any provision of this Agreement.

f) Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their successors and assigns.

g) Counterparts. This Agreement may be executed in several counterparts, each constituting a duplicate original, but all such counterparts constituting one and the same Agreement.

h) Interpretation. Whenever the context hereof shall require, the singular shall include the plural, the male gender shall include the female gender and the neuter, and vice versa.



i) Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein .

j) Section 1031 Exchange. Upon request by Seller, Purchaser shall cooperate with Seller in order to effectuate the goal of Seller to have this transaction qualify for a tax deferred treatment under Section 1031 of the Internal Revenue Code of 1986, as amended, provided that Purchaser is put to no additional expense, in this regard, and that the closing is not materially delayed. Formal provisions detailing the exchange shall be entered into by the parties and made a part of the final contract of exchange, no later than as such time as Purchaser shall acknowledge satisfaction of the contingencies to its obligation to close this transaction.

k) Time for Acceptance & Effective Date. If this offer is not executed by both parties hereto on or before \_\_\_\_\_, the aforementioned deposits shall be returned to Purchaser, and this offer shall thereafter be null and void. The date of the Agreement ("Effective Date") shall be the date when the last one of the Seller and Purchaser has signed this offer.

**VII. SPECIAL CLAUSES:**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

Witness

Executed on:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Buyer

\_\_\_\_\_  
Buyer

\_\_\_\_\_  
Seller

\_\_\_\_\_  
Seller

\_\_\_\_\_  
Escrow Agent

## Contract For Purchase And Sale

**PARTIES :** { \_\_\_\_ 1 \_\_\_\_ }, as Seller, and { \_\_\_\_ 2 \_\_\_\_ }, as Buyer, hereby agree that the Seller shall sell and Buyer shall buy the

### I. DESCRIPTION:

- a) Legal description of real estate: { \_\_\_\_ 3 \_\_\_\_ }
- b) Street address, if any, of the Property being conveyed is { \_\_\_\_ 4 \_\_\_\_ }, { \_\_\_\_ 5 \_\_\_\_ }
- c) Personal property including all buildings and improvements on the property and all right, title and interest of Seller in and to adjacent streets, roads, alleys and rights-of-way, and: { \_\_\_\_ 6 \_\_\_\_ }

### II. PURCHASE PRICE \$ { \_\_\_\_ 7 \_\_\_\_ }

#### PAYMENT:

- a) Cash Deposit(s) to be held in escrow by { \_\_\_\_ 8 \_\_\_\_ } in the amount of \$ { \_\_\_\_ 9 \_\_\_\_ } and promissory note to be held in same escrow as additional earnest Buyer's default in the amount of { \_\_\_\_ 10 \_\_\_\_ }.
- b) Subject to assumption of Mortgage in favor of { \_\_\_\_ 11 \_\_\_\_ } interest at { \_\_\_\_ 12 \_\_\_\_ } % per annum and payable as to principal and interest { \_\_\_\_ 13 \_\_\_\_ } per month, having an approximate present principal balance of { \_\_\_\_ 14 \_\_\_\_ }.
- c) Purchase money mortgage and note bearing interest at { \_\_\_\_ 15 \_\_\_\_ } % on terms set forth herein below, in the principal amount of { \_\_\_\_ 16 \_\_\_\_ }.
- d) Other:
- e) Balance to close, (U.S. Cash, certified or cashier's check) subject to adjustments and prorations: { \_\_\_\_ 17 \_\_\_\_ }.

TOTAL \$ { \_\_\_\_ 7 \_\_\_\_ }.

- f) All funds held in escrow shall be placed in an interest bearing account at the direction of Buyer, with interest accruing to the benefit of Buyer and either applied toward the purchase price at closing or returned to Buyer in the event and for any reason the transaction does not close.

**III. FINANCING:** If the purchase price or any part thereof is to be financed by a third party loan, this Contract for Purchase and Sale is conditioned upon the Buyer obtaining a firm commitment for said loan within sixty days from the date hereof, at an interest rate not to exceed { \_\_\_\_ 18 \_\_\_\_ } %; for { \_\_\_\_ 19 \_\_\_\_ } years; and in the principal amount of { \_\_\_\_ 16 \_\_\_\_ }. Buyer agrees to make application for, and to use reasonable diligence to obtain said loan. Should Buyer fail to obtain same or to waive Buyer's rights hereunder within said time, Buyer may cancel Contract.

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

**V. TIME FOR ACCEPTANCE AND EFFECTIVE DATE:** If this offer is not executed by both of the parties hereto on or before {\_\_\_\_20\_\_\_\_}, the aforesaid deposit(s) shall be at the option of the Buyer, returned to him and this offer shall therefore and void. The date of Contract shall be the date when the last one of the Seller and Buyer has signed this offer.

**VI. CLOSING DATE:** The transaction shall be closed and the deed and other closing papers delivered on the {\_\_\_\_21\_\_\_\_} day of {\_\_\_\_22\_\_\_\_}, unless extended by other provisions of contract, or by written agreement of the Parties.

**VII. RESTRICTIONS, EASEMENTS, LIMITATIONS:** The Buyer shall take title subject only to:

Zoning, restrictions, prohibitions and other requirements imposed by government authority; Restrictions and matters appearing on the plat or otherwise common to the subdivision; Public utility easement of record; Taxes for year of closing and subsequent, assured mortgages and purchase money mortgages, if any; other: \_\_\_\_\_ provided, however, that none of the foregoing shall prevent use of the property for the purpose of \_\_\_\_\_.

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

**IX. ASSIGNABILITY:** Buyer may assign this Contract.

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

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

**XII. EXISTING MORTGAGES TO BE ASSUMED:** Seller shall furnish to Buyer within twenty days from execution hereof a statement from all mortgagee(s) setting forth principal balance, method of payment, interest rate and

whether the mortgage(s) is in good standing. If a mortgage requires approval of the Buyer by the mortgagee in order to avoid default, or for assumption by the Buyer of said mortgage, and:

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

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

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

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

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

**XV. TERMITES:** The Buyer, within time allowed for delivery of evidence of title and examination thereof, or no later than ten days prior to closing, whichever date occurs last, may have the improvements inspected at Buyer's expense by a certified pest control operator to determine whether there is any visible active termite infestation or visible existing damage from termite infestation in the improvements. If Buyer is informed of either or both of the foregoing, Buyer will have ten days from date of notice thereof within which to have all damages, whether visible or not, inspected and estimated by a licensed building or general contractor. Seller shall pay valid costs for treatment and repair of all damage up to 1 1/2% of Purchase Price. Should such costs exceed that amount, Buyer shall have the option of cancelling Contract within five days after receipt of contractor's repair estimate by giving written

notice to Seller, or Buyer may elect to proceed with the transaction, in which event Buyer shall receive a credit at closing of an amount equal to 1½% of said Purchase Price. <<Termites>> shall be deemed to include all wood destroying organisms.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**XXX.(a) DEFAULT BY SELLER:** In the event that Seller should fail to consummate the transaction contemplated herein for any reason, except Buyer's default; (i) Buyer may enforce specific performance of this Agreement in a court of competent jurisdiction and in such action shall have the right to recover damages suffered by Buyer by reason of the delay in the acquisition of the Property, or (ii) may bring suit for damages for breach of this Agreement, in which event, the deposit made hereunder shall be forthwith returned to Buyer, or (iii) declare a default, demand

and receive the return of the deposit. All rights, powers, options or remedies afforded to Buyer either hereunder or by law shall be cumulative and not alternative and the exercise of one right, power, option or remedy shall not bar other rights, powers, options or remedies allowed herein or by law.

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

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

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

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

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

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

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

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

**XXXVIII. SURVIVAL OF REPRESENTATIONS AND WARRANTIES:** The representations and warranties set forth in this Contract shall be continuing and shall be true and correct on and as of the closing date with the same force and effect as if made at that time, and all of such representations and warranties shall survive the closing and shall not be affected by any investigation, verification or approval by any party hereto or by anyone on behalf of any party hereto.

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

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



**XLI. SPECIAL CLAUSES:**

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

\_\_\_\_\_  
Buyer

\_\_\_\_\_

\_\_\_\_\_  
Buyer

\_\_\_\_\_

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

\_\_\_\_\_  
Seller

\_\_\_\_\_

\_\_\_\_\_  
Seller

\_\_\_\_\_

\_\_\_\_\_

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

By: \_\_\_\_\_

(Escrow Agent)

**BROKERAGE FEE:** Seller agrees to pay the registered real estate Broker named below, at time of closing, from the disbursements of the proceeds of sale, compensation in the total amount of \_\_\_\_\_% of gross purchase price of \$\_\_\_\_\_ for his services in effecting the sale by finding a Buyer, ready, willing and able to purchase pursuant to the foregoing Contract. In the event Buyer fails to perform and deposit(s) is retained, 50% thereof, but not exceeding the Broker's fee above computed, shall be paid to the Broker as full consideration for Broker's services including costs expended by Broker, and the balance shall be paid to Seller. If the transaction shall not be closed because of refusal or failure of Seller to perform, the Seller shall pay said fee in full to Broker on demand. Seller agrees to indemnify, defend and hold Buyer harmless from and against all claims or demands with respect to any brokerage fees or agent's commissions or other compensation asserted by any person or entity in connection with this agreement or the transaction contemplated herein .

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

\_\_\_\_\_  
Seller

## Addendum To Contract For Sale And Purchase

**THE UNDERSIGNED BUYER(S) AND SELLER(S) HEREBY AGREE TO THE FOLLOWING:**

In reference to Contract dated { \_\_\_\_ 1 \_\_\_\_ } between { \_\_\_\_ 2 \_\_\_\_ }, the Buyer, and { \_\_\_\_ 3 \_\_\_\_ }, the Seller.

Address: { \_\_\_\_ 4 \_\_\_\_ }

1. Owner held first mortgage of { \_\_\_\_ 5 \_\_\_\_ }, amortized { \_\_\_\_ 6 \_\_\_\_ } years at { \_\_\_\_ 7 \_\_\_\_ }%, and a payment of { \_\_\_\_ 8 \_\_\_\_ } P&I with a final balloon payment in { \_\_\_\_ 9 \_\_\_\_ } years of { \_\_\_\_ 10 \_\_\_\_ }.

2. Sale contingent on seller selling mortgage.

3. Seller selling the first { \_\_\_\_ 11 \_\_\_\_ } years of payments for the gross amount of { \_\_\_\_ 12 \_\_\_\_ }.

4. Seller to pay for all closing costs including and not limited to title insurance, document stamps on deed and note, and all recording fees.

5. Buyer has inspected and accepted property in as-is condition.

6. Buyer to pay for credit report.

This addendum, upon its execution by both parties, is herewith made an integral part of the aforementioned Contract.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
BUYER(s)

\_\_\_\_\_  
SELLER(s)

Date \_\_\_\_\_

Date \_\_\_\_\_

## Addendum

ADDENDUM to agreement of sale dated DATE, between NAME OF SELLER, Seller, and NAME OF BUYER, Buyer and his assigns, buyer of all that certain property located at LOCATION ADDRESS. The terms and conditions of this addendum shall prevail in the event of a conflict with the terms and conditions of the attached Agreement of Sale.

This offer is subject to Buyer's inspection and/or Buyer's partners' inspection and written acceptance of same delivered to Seller within seven days of Seller's acceptance of this offer to purchase.

Seller warrants the roof to be free from major damage or leaks, and is to provide a suitable inspection and certification of same on the date of settlement. Should the roof subsequently leak within one year from settlement, Seller shall correct such defect at own expense.

Seller guarantees all appliances for 90 days from close of sale.

Seller to leave property in "move in" condition.

Seller to credit Buyer \$DOLLAR AMOUNT in escrow for DETAIL OF SUCH.

Seller agrees to hold a Purchase Money Mortgage (PMM) in the amount of \$\_\_\_\_\_.

Witnesses:

\_\_\_\_\_  
Buyer

\_\_\_\_\_  
Seller

\_\_\_\_\_  
Buyer

\_\_\_\_\_  
Seller

INSERT PARTNER GIVE LIST

## Assignment Of Mortgage

**THIS ASSIGNMENT OF MORTGAGE** (hereinafter referred to as the "Assignment") is made as of this {\_\_\_\_1\_\_\_\_} day of {\_\_\_\_2\_\_\_\_} by {\_\_\_\_3\_\_\_\_} (hereinafter referred to as the "Assignor") for the benefit of {\_\_\_\_4\_\_\_\_} (hereinafter referred to as the "Assignee")

WITNESSETH:

WHEREAS, Assignor is the holder of that certain Mortgage together with the debt and Note secured thereby, in the original principal sum of \$ {\_\_\_\_5\_\_\_\_} given by {\_\_\_\_6\_\_\_\_} as "Mortgagor", and which Mortgage encumbers and is a lien upon that certain real property described in Exhibit "A" attached hereto and by this reference made a part hereof (hereinafter referred to as the "Premises"); and,

WHEREAS, Assignor is desirous of assigning said Mortgage, together with the Note and the debt therein described, to Assignee; and

WHEREAS, Assignee is desirous of receiving and holding said Mortgage, together with the Note and the debt therein described, from Assignor.

NOW, THEREFORE, for and in consideration of the sum of \$ {\_\_\_\_7\_\_\_\_} paid by Assignee, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by Assignor, Assignor does hereby make the following assignment:

1. Assignment. Assignor has granted, bargained, sold, assigned, conveyed and transferred, and by these presents does grant, bargain, sell, assign, convey and transfer unto Assignee, its heirs, successors and assigns, forever all of its right, title and interest in, to and under said Mortgage described above, together with the debt and Note secured thereby; together with any and all rights, interests and appurtenances thereto belonging; subject only to any right and equity of redemption of said Mortgagor, its successors or assigns in the same.

2. Warranties and Representations. Assignor hereby warrants and represents that it is the present holder of the above described Mortgage and that there are no other holders of said Mortgage or any interest therein nor is there any default by mortgagor therein or in the note and debt secured thereby.

3. Governing Law. This Assignment shall be governed, construed and interpreted by, through and under the laws of the State of {\_\_\_\_8\_\_\_\_}.

4. Headings. Paragraph headings contained herein are for convenience of reference only and are not to be used in the construction or interpretation hereof.

IN WITNESS WHEREOF, Assignor has executed and delivered this Assignment to Assignee on the date hereof.

Witnesses

Assignor

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

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

STATE OF \_\_\_\_\_ COUNTY OF \_\_\_\_\_

THE FOREGOING instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 19 \_\_ by

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

## Assignment Of Option To Purchase Real Estate

For value received, { \_\_\_\_ 1 \_\_\_\_ }, assignor, assigns to { \_\_\_\_ 2 \_\_\_\_ }, assignee, all rights and interest of assignor in an agreement, dated { \_\_\_\_ 3 \_\_\_\_ } day of { \_\_\_\_ 4 \_\_\_\_ } whereby assignor was given the option to purchase from {What is the name of the Seller of the Property on the Real Estate Option?} [], the following described real estate at a price and under the terms and conditions therein contained:

{ \_\_\_\_ 5 \_\_\_\_ }

Such option commenced on the { \_\_\_\_ 6 \_\_\_\_ } day of { \_\_\_\_ 7 \_\_\_\_ }, and is good until { \_\_\_\_ 8 \_\_\_\_ } o'clock, on the { \_\_\_\_ 9 \_\_\_\_ } day of { \_\_\_\_ 10 \_\_\_\_ }.

Assignor, by virtue of this assignment, grants to assignee the right to exercise or reject the option in good faith and the right to recover any moneys deposited by assignor to receive said option.

Dated { \_\_\_\_ 11 \_\_\_\_ } day of { \_\_\_\_ 12 \_\_\_\_ }.

\_\_\_\_\_  
STATE OF \_\_\_\_\_ COUNTY OF \_\_\_\_\_

BEFORE ME, the undersigned authority, on this \_\_\_\_ day of \_\_\_\_\_, 19 \_\_, personally appeared \_\_\_\_\_ to me well known to be the person described in and who signed the Foregoing, and acknowledged to me that he executed the same freely and voluntarily for the uses and purposes therein expressed.

\_\_\_\_\_  
WITNESS my hand and official seal the date aforesaid.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

## Assignment of Contract

For value received the undersigned, {\_\_\_\_1\_\_\_\_} as assignor and holder of that certain real estate contract entered into on the {\_\_\_\_2\_\_\_\_} day of {\_\_\_\_3\_\_\_\_}, between {\_\_\_\_4\_\_\_\_}, as seller, and {\_\_\_\_5\_\_\_\_}, as purchaser, for the sale and purchase of the following real estate:

{\_\_\_\_6\_\_\_\_}

does hereby assign, transfer and set over to {\_\_\_\_7\_\_\_\_}, as assignee, the said real estate contract, and said assignor does bargain, sell and convey said described premises to said assignee, who hereby assumes and agrees to fulfill the conditions of said real estate contract.

Dated this {\_\_\_\_8\_\_\_\_} day of {\_\_\_\_9\_\_\_\_}.

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

STATE OF \_\_\_\_\_ COUNTY OF \_\_\_\_\_

I HEREBY CERTIFY that on this day before me, an officer duly qualified to take acknowledgments, personally appeared \_\_\_\_\_ to me known to be the person described in and who executed the foregoing instrument and acknowledged before me that he executed the same.

WITNESS: my hand and official seal in the County and State last aforesaid this \_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

\_\_\_\_\_

Notary Public

My Commission Expires: \_\_\_\_\_

# Mortgage

THIS INDENTURE, made as of the { \_\_\_\_ 1 \_\_\_\_ } day of { \_\_\_\_ 2 \_\_\_\_ }, by and between { \_\_\_\_ 3 \_\_\_\_ }, hereinafter called "Mortgagor", and { \_\_\_\_ 4 \_\_\_\_ }, hereinafter called "Mortgagee".

**WITNESSETH:**

**AMOUNT OF LIEN:** { \_\_\_\_ 5 \_\_\_\_ }

**WHEREAS**, Mortgagor is justly indebted to Mortgagee in the sum of \${ \_\_\_\_ 5 \_\_\_\_ } in lawful money of the United States, and has agreed to pay the same, with interest thereon, according to the terms of a certain note (the "Note") given by Mortgagor to Mortgagee, bearing even date herewith.

**NOW, THEREFORE**, in consideration of the premises and the sum hereinabove set forth, and to secure the payment of the Secured Indebtedness as defined herein, Mortgagor has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell and convey unto Mortgagee property described in Exhibit "A" attached hereto and by this reference made a part hereof; **TOGETHER** with all buildings, structures and other improvements now or hereafter located on, above or below the surface of the property hereinbefore described, or any part and parcel thereof; and,

**TOGETHER** with all and singular the tenements, hereditaments, easements, riparian and littoral rights, and appurtenances thereunto belonging or in anywise appertaining, whether now owned or hereafter acquired by Mortgagor, and including all rights of ingress and egress to and from adjoining property (whether such rights now exist or subsequently arise) together with the reversion or reversions, remainder and remainders, rents, issues and profits thereof; and also all the estate, right, title, interest, claim and demand whatsoever of Mortgagor of, in and to the same and of, in and to every part and parcel thereof; and,

**TOGETHER** with all machinery, apparatus, equipment, fittings, fixtures, whether actually or constructively attached to said property and including all trade, domestic and ornamental fixtures, and articles of personal property of every kind and nature whatsoever (hereinafter collectively called "Equipment"), now or hereafter located in, upon or under said property or any part thereof and used or usable in connection with any present or future operation of said property and now owned or hereafter acquired by Mortgagor; and, **TOGETHER** with all the common elements appurtenant to any parcel, unit or lot which is all or part of the Premises; and, **ALL** the foregoing encumbered by this Mortgage being collectively referred to herein as the "Premises";

**TO HAVE AND TO HOLD** the Premises hereby granted to the use, benefit and behalf of the Mortgagee, forever.

## U.C.C. SECURITY AGREEMENT

It is agreed that if any of the property herein mortgaged is of a nature so that a security interest therein can be perfected under the Uniform Commercial Code, this instrument shall constitute a Security Agreement and Mortgagor agrees to join with the Mortgagee in the execution of any financing statements and to execute any and all other instruments that may be required for the perfection or renewal of such security interest under the Uniform Commercial Code.

## EQUITY OF REDEMPTION

Conditioned, however, that if Mortgagor shall promptly pay or cause to be paid to Mortgagee, at its address listed in the Note, or at such other place which may hereafter be designated by Mortgagee, its or their successors or assigns,

with interest, the principal sum of \$ { \_\_\_\_ 1 \_\_\_\_ } with final maturity, if not sooner paid, as stated in said Note unless amended or extended according to the terms of the Note executed by Mortgagor and payable to the order of Mortgagee, then these presents shall cease and be void, otherwise these presents shall remain in full force and effect.

## ARTICLE ONE

### COVENANTS OF MORTGAGOR

Mortgagor covenants and agrees with Mortgagee as follows:

#### 1.01 Secured Indebtedness.

This Mortgage is given as security for the Note and also as security for any and all other sums, indebtedness, obligations and liabilities of any and every kind arising, under the Note or this Mortgage, as amended or modified or supplemented from time to time, and any and all renewals, modifications or extensions of any or all of the foregoing (all of which are collectively referred to herein as the "Secured Indebtedness"), the entire Secured Indebtedness being equally secured with and having the same priority as any amounts owed at the date hereof.

#### 1.02 Performance of Note, Mortgage, Etc..

Mortgagor shall perform, observe and comply with all provisions hereof and of the Note and shall promptly pay, in lawful money of the United States of America, to Mortgagee the Secured Indebtedness with interest thereon as provided in the Note, this Mortgage and all other documents constituting the Secured Indebtedness.

#### 1.03 Extent Of Payment Other Than Principal And Interest.

Mortgagor shall pay, when due and payable, (1) all taxes, assessments, general or special, and other charges levied on, or assessed, placed or made against the Premises, this instrument or the Secured Indebtedness or any interest of the Mortgagee in the Premises or the obligations secured hereby; (2) premiums on policies of fire and other hazard insurance covering the Premises, as required herein; (3) ground rents or other lease rentals; and (4) other sums related to the Premises or the indebtedness secured hereby, if any, payable by Mortgagor.

#### 1.04 Insurance.

Mortgagor shall, at its sole cost and expense, keep the Premises insured against all hazards as is customary and reasonable for properties of similar type and nature.

Mortgagor shall maintain the Premises in good condition and repair and shall not commit or suffer any material waste to the Premises .

#### 1.06 Prior Mortgage.

With regard to the Prior Mortgage, Mortgagor hereby agrees to:

(i) Pay promptly, when due, all installments of principal and interest and all other sums and charges made payable by the Prior Mortgage;



(ii) Promptly perform and observe all of the terms, covenants and conditions required to be performed and observed by Mortgagor under the Prior Mortgage, within the period provided in said Prior Mortgage;

(iii) Promptly notify Mortgagee of any default, or notice claiming any event of default by Mortgagor in the performance or observance of any term, covenant or condition to be performed or observed by Mortgagor under any such Prior Mortgage.

(iv) Mortgagor will not request nor will it accept any voluntary future advances under the Prior Mortgage without Mortgagee's prior written consent, which consent shall not be unreasonably withheld.

## **ARTICLE TWO**

### **DEFAULTS**

#### **2.01 Event of Default.**

The occurrence of any one of the following events which shall not be cured within thirty days after written notice of the occurrence of the event, if the default is monetary, or which shall not be cured within thirty days after written notice from Mortgagee, if the default is non-monetary, shall constitute an "Event of Default":

(a) Mortgagor fails to pay the Secured Indebtedness, or any part thereof, or the taxes, insurance and other charges, as hereinbefore provided, when and as the same shall become due and payable;

(b) Any material warranty of Mortgagor herein contained, or contained in the Note, proves untrue or misleading in any material respect;

(c) Mortgagor materially fails to keep, observe, perform, carry out and execute the covenants, agreements, obligations and conditions set out in this Mortgage, or in the Note;

(d) Foreclosure proceedings (whether judicial or otherwise) are instituted on any mortgage or any lien of any kind secured by any portion of the Premises and affecting the priority of this Mortgage.

#### **2.02 Options Of Mortgagee Upon Event Of Default.**

Upon the occurrence of any Event of Default, the Mortgagee may immediately do any one or more of the following:

(a) Declare the total Secured Indebtedness, including without limitation all payments for taxes, assessments, insurance premiums, liens, costs, expenses and attorney's fees herein specified, without notice to Mortgagor (such notice being hereby expressly waived), to be due and collectible at once, by foreclosure or otherwise;

(b) Pursue any and all remedies available under the Uniform Commercial Code; it being hereby agreed that ten days notice as to the time, date and place of any proposed sale shall be reasonable;

(c) In the event that Mortgagee elects to accelerate the maturity of the Secured Indebtedness and declares the Secured Indebtedness to be due and payable in full at once as provided for in Paragraph 2.02(a) hereinabove, or as may be provided for in the Note, or any other provision or term of this Mortgage, then Mortgagee shall have the right to pursue all of Mortgagee's rights and remedies for the collection of such Secured Indebtedness, whether such rights and remedies are granted by this Mortgage, any other agreement, law, equity or otherwise, to include, without limitation, the institution of foreclosure proceedings against the Premises under the terms of this Mortgage and any applicable state or federal law.

## **ARTICLE THREE**

### **MISCELLANEOUS PROVISIONS**

#### **3.01 Prior Liens.**

Mortgagor shall keep the Premises free from all prior liens (except for those consented to by Mortgagee).

#### **3.02 Notice, Demand and Request.**

Every provision for notice and demand or request shall be deemed fulfilled by written notice and demand or request delivered in accordance with the provisions of the Note relating to notice.

#### **3.03 Meaning of Words.**

The words "Mortgagor" and "Mortgagee" whenever used herein shall include all individuals, corporations (and if a corporation, its officers, employees or agents), trusts and any and all other persons or entities, and the respective heirs, executors, administrators, legal representatives, successors and assigns of the parties hereto, and all those holding under either of them. The pronouns used herein shall include, when appropriate, either gender and both singular and plural. The word "Note" shall also include one or more notes and the grammatical construction of sentences shall conform thereto.

#### **3.04 Severability.**

If any provision of this Mortgage or any other Loan Document or the application thereof shall, for any reason and to any extent, be invalid or unenforceable, neither the remainder of the instrument in which such provision is contained, nor the application of the provision to other persons, entities or circumstances, nor any other instrument referred to hereinabove shall be affected thereby, but instead shall be enforced to the maximum extent permitted by law.

#### **3.05 Governing Law.**

The terms and provisions of this Mortgage are to be governed by the laws of the State of {\_\_\_6\_\_\_}. No payment of interest or in the nature of interest for any debt secured in part by this Mortgage shall exceed the maximum amount permitted by law. Any payment in excess of the maximum amount shall be applied or disbursed as provided in the Note in regard to such amounts which are paid by the Mortgagor or received by the Mortgagee.

#### **3.06 Descriptive Headings.**

The descriptive headings used herein are for convenience or reference only, and they are not intended to have any effect whatsoever in determining the rights or obligations of the Mortgagor or Mortgagee and they shall not be used in the interpretation or construction hereof.

#### **3.07 Attorney's Fees.**

As used in this Mortgage, attorneys' fees shall include, but not be limited to, fees incurred in all matters of collection and enforcement, construction and interpretation, before, during and after suit, trial, proceedings and appeals.

Attorneys' fees shall also include hourly charges for paralegals, law clerks and other staff members operating under the supervision of an attorney .

**IN WITNESS WHEREOF**, the Mortgagor has caused this instrument to be duly executed as of the day and year first above written .

\_\_\_\_\_

\_\_\_\_\_

Witnesses Mortgagor(s)

STATE OF \_\_\_\_\_ COUNTY OF \_\_\_\_\_

## Wrap-Around Mortgage

This Mortgage Deed, made and executed the 1st, 3rd, 6th, etc. day of March, 1996, by Joe Buyer hereinafter called the Mortgagor which term shall include the heirs, legal representatives, successors and assigns of the said Mortgagor wherever the context so requires or admits, to Joe Seller hereinafter called the Mortgagee, which term shall include the heirs, legal representatives, successors and assigns, of the said Mortgagee wherever the context so requires or admits.

**WITNESSETH:** That for good and valuable consideration, and also in consideration of the aggregate sum named in the promissory note of even date herewith hereinafter described, the said Mortgagor does hereby grant, bargain, sell, alien, remise, release, convey and confirm unto the said Mortgagee, his heirs, successors and assigns, all the certain piece, parcel or tract of land, of which the said Mortgagor is now seized and possessed and in actual possession, described as follows:

To have and to hold together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining and the reversion and reversions, remainder and remainders, rents, issues and profits thereof and also all the estate, right, title, interest, property, possession, claim and demand whatsoever as well in law as in equity of the said Mortgagor in and to the same and every part and parcel thereof unto the said Mortgagee, and his heirs, successors and assigns in fee simple.

And said Mortgagor, for himself, his heirs, legal representatives, successors and assigns, hereby covenants with said Mortgagee, his heirs, legal representatives, successors and assigns that said Mortgagor is indefeasibly seized of said land in fee simple; that the said Mortgagor has full power and lawful right to convey the same in fee simple as aforesaid; that it shall be lawful for said Mortgagor, his heirs, legal representatives, successors and assigns, at all times peaceably and quietly to enter upon, hold, occupy and enjoy said land and every part thereof: that said land is free from all incumbrances, except those specifically mentioned in this Mortgage; that said Mortgagor, his heirs, legal representatives, successors and assigns, will make such further assurances to perfect the fee simple title to said land in said Mortgagee, his heirs, legal representatives, successors and assigns, as may reasonably be required: and that said Mortgagor does hereby fully warrant the title to said land and every part thereof and will defend the same against the lawful claims of all persons whomever.

Provided always, that the said Mortgagor shall pay unto the said Mortgagee the certain promissory note, of which the following in words and figures is a true copy, to-wit:

See attachment "A"

And shall duly, promptly and fully perform, discharge, execute, effect, complete, comply with and abide by each and every the stipulations, agreements, conditions and covenants of said promissory note and of this mortgage, then this mortgage and the estate hereby created shall cease and be null and void.

It is understood that each of the words, "note", "mortgagor" and "mortgagee" respectively and the pronouns referring thereto, whether in the singular or plural anywhere in this mortgage, shall be singular if one only and shall be plural jointly and severally, if more than one, and shall be masculine, feminine and/or neuter, wherever the context so implies or admits.

And the said Mortgagor for himself and his heirs, legal representatives, successors and assigns, hereby covenants and agrees to and with said Mortgagee, his legal representatives, successors and assigns:

**1. PAYMENT OF PRINCIPAL AND INTEREST.** To pay all and singular the principal and interest and the various and sundry sums of money payable by virtue of said promissory note, and this mortgage, each and every, promptly on the days respectively the same severally become due.

**2. FUNDS FOR TAXES AND INSURANCE.** To pay all and singular the taxes, assessments, levies, liabilities, obligations and incumbrances of every nature and kind now on said described property, and/or that hereafter may be imposed, suffered, placed, levied or assessed thereupon, and/or that hereafter may be levied or assessed upon this mortgage and/or the indebtedness secured hereby, each and every, when due and payable according to law, before they become delinquent, and before any interest attaches or any penalty is incurred; and in so far as any thereof is of record the same shall be promptly satisfied and discharged of record and the original official document (such as, for instance, the tax receipt or the satisfaction paper officially endorsed or certified) shall be placed in the hands of said Mortgagee within ten days next after payment; and in the event that any thereof is not so paid, satisfied and discharged, said Mortgagee may at any time pay the same or any part thereof without waiving or affecting any option, lien, equity or right under or by virtue of this mortgage, and the full amount of each and every such payment shall be immediately due and payable and shall bear interest from the date thereof until paid at the rate of 9.25% per annum and together with such interest shall be secured by the lien of this mortgage.

**3. HAZARD INSURANCE.** To place and continuously keep on the buildings now or hereafter situate on said land fire and windstorm insurance in the usual standard policy form, in a sum not less than highest insurable value, in such company or companies as may be approved by said Mortgagee; and all such insurance policies on any of said buildings, any interest therein or part thereof, in the aggregate sum aforesaid or in excess thereof, shall contain the usual standard mortgage clause making the loss under said policies, each and every, payable to said Mortgagee as his interest may appear, and each and every such policy shall be promptly delivered to and held by said Mortgagee; and, not less than ten days in advance of the expiration of each policy, to deliver to said Mortgagee a renewal thereof, together with a receipt for the premium of such renewal; and there shall be no such insurance placed on any of said buildings, any interest therein or part thereof, unless in the form and with the loss payable as aforesaid; and in the event any sum of money becomes payable under such policy or policies said Mortgagee shall have the option to receive and apply the same on account of the indebtedness secured hereby or to permit said Mortgagor to receive and use it or any part thereof for other purposes without thereby waiving or impairing any equity, lien or right under or by virtue of this mortgage; and in the event said Mortgagor shall for any reason fail to keep the said premises so insured, or fail to deliver promptly any of said policies of insurance to said Mortgagee, or fail promptly to pay fully any premium therefor, or in any respect fail to perform, discharge, execute, effect, complete, comply with and abide by this covenant, or any part hereof, said Mortgagee may place and pay for such insurance or any part thereof without waiving or affecting any option, lien, equity or right under or by virtue of this mortgage, and the full amount of each and every such payment shall be immediately due and payable and shall bear interest from the date thereof until paid at the rate of 9.25% per annum and together with such interest shall be secured by the lien of this mortgage.

**4. PRESERVATION AND MAINTENANCE.** To permit, commit or suffer no waste, impairment or deterioration of said property or any part thereof.

**5. CHARGES.** To pay all and singular the costs, charges and expenses, including reasonable lawyer's fees and cost of abstracts of title, incurred or paid at any time by said Mortgagee because and/or in the event of the failure on the part of the said Mortgagor to duly, promptly and fully perform, discharge, execute, effect, complete, comply with and abide by each and every the stipulations, agreements, conditions and covenants of said promissory note, and this mortgage, any or either, and said costs, charges and expenses, each and every, shall be immediately due and payable, whether or not there by notice, demand, attempt to collect or suit pending; and the full amount of each and every such payment shall bear interest from the date thereof until paid at the rate of 9.25% per annum; and all said costs, charges and expenses so incurred or paid, together with such interest, shall be secured by the lien of this mortgage.

**6. DEFAULT.** That (a) in the event of any breach of this mortgage or default on the part of the Mortgagor, or (b) in the event any of said sums of money herein referred to be not promptly and fully paid within thirty days next after the same severally become due and payable, without demand or notice, or (c) in the event each and every the stipulations, agreements, conditions and covenants of said promissory note and this mortgage, any any or either, are not duly, promptly and fully performed, discharged, executed, effected, completed, complied with and abided by, then, in either or any such event, the said aggregate sum mentioned in said promissory note then remaining unpaid, with interest accrued, and all moneys secured hereby, shall become due and payable forthwith, or thereafter, at the option of said Mortgagee, as fully and completely as if all of the said sums of money were originally stipulated to be paid on such day, anything in said promissory note, and/or in this mortgage to the contrary notwithstanding; and thereupon or thereafter at the option of said Mortgagee, without notice or demand, suit at law or in equity, theretofore, or thereafter begun, may be prosecuted as if all moneys secured hereby had matured prior to its institution.

**7. APPOINTMENT OF RECEIVER.** That in the event that at the beginning of or at any time pending any suit upon this mortgage, or to foreclose it, or to reform it, and/or to enforce payment of any claims hereunder, said Mortgagee shall apply to the court having jurisdiction thereof for the appointment of a Receiver, such court shall forthwith appoint a Receiver of said mortgaged property all and singular, including all and singular the rents, income, profits, issues and revenues from whatever source derived, each and every of which, it being expressly understood, is hereby mortgaged as if specifically set forth and described in the granting and habendum clauses hereof, and such Receiver shall have all the broad and effective functions and powers in anywise entrusted by a court to a Receiver, and such appointment shall be made by such court as an admitted equity and a matter of absolute right to said Mortgagee, and without reference to the adequacy or inadequacy of the value of the property mortgaged or to the solvency or insolvency of said Mortgagor and/or of the defendants, and that such rents, profits, income, issues and revenues shall be applied by such Receiver according to the lien and/or equity of said Mortgagee and the practice of such court.

**8. PERFORMANCE.** To duly, promptly and fully perform, discharge, execute, effect, complete, comply with and abide by each and every the stipulations, agreement, conditions and covenants in said promissory note and in this mortgage set forth.

**9. CONSOLIDATED MORTGAGE.** This mortgage is subject and subordinate to the consolidated mortgage, dated the 1st, 3rd, 6th, etc. day of March, 1991, made between Joe Payer as mortgagor, and Joe Holder as mortgagee, and constituting a prior mortgage lien on the premises, the legal description of which has been described on page 1. The said consolidated mortgage is now in the reduced principal amount of \$120,000.00, with the interest from the 1st, 2nd, 3rd, etc. day of March, 1996, and by its terms, the said consolidated mortgage matures on the 1st, 2nd, 3rd, etc. day of March, 1996. (The said consolidated mortgage is hereinafter referred to in this instrument as the "First Mortgage".)

**10. WRAP PAYMENTS.** Mortgagee shall pay to the holder of the First Mortgage the sum of \$100,000.00 being the unpaid balance of said mortgage, together with all interest thereon accruing thereunder from the 1st, 2nd, 3rd, etc. day of March, 1996, when as required by the terms and provisions of said First Mortgage until paid in full.

**11. WRAP MORTGAGE INDEBTEDNESS.** As to the principal indebtedness of mortgagor to mortgagee in the sum of \$100,000.00, and mortgagor and mortgagee hereby agree that the balance of said principal indebtedness totaling the sum of \$100,000.00 has been validly incurred by mortgagee hereby agreeing to retain the said balance and pay, as set forth above, to the holder of the First Mortgage the sum of \$120,000.00, being the principal balance remaining unpaid under said First Mortgage.

**12. WRAP MORTGAGE TERMS.** Mortgagor agrees to comply with all of the terms, provisions, and conditions of the First Mortgage other than those applicable to the payment of principal and interest due under said First

Mortgage. In case mortgagor fails to comply with each and every one of the terms, provisions and conditions of the said First Mortgage or is in default under said First Mortgage, other than in respect to payments of principal and interest under said First Mortgage after the 1st, 2nd, 3rd, etc. day of March, 1996, said failure to comply or default on Mortgagor's part shall constitute a default under this mortgage and shall entitle mortgagee, at mortgagee's option, to exercise any and all of its rights and remains in case of a default under this mortgage.

**13. EXPENSES.** The mortgagor or any owner of the premises when requested by the Title Company and/or the attorneys representing the holder of the First Mortgage shall pay any and all expenses, including but not limited to, title company changes, recording and filing fees, legal fees of the attorneys for the holder of the First Mortgage in preparation of an assignment of either mortgage and any tax, if any, that may be hereafter imposed by any taxing authority in connection with the compliance with the provisions hereof dealing with the payments made or to be made to the holders of the First Mortgage .

Mortgagee agrees to make all such payments as aforesaid before the expiration of the applicable grace periods provided in the said First Mortgage for such payments.

Mortgagee's duty and responsibility to make the respective payments of principal and interest when and as due under the said First Mortgage is, despite the foregoing, subject to the following conditions: (1) the mortgagor shall not be in default under the terms and provisions of this mortgage and (2) the mortgagor shall comply in all respects with each and every one of the terms, provisions and conditions of the First Mortgage other than those which apply to the payments of principal and interest due under the said First Mortgage after the 1st, 2nd, 3rd, etc. day of March, 1996.

Mortgagee does not assume any of mortgagor's duties and obligations under the said First Mortgage except as hereinafore provided as to payments of principal and interest due thereunder after the 1st, 2nd, 3rd, etc. day of March, 1996.

**14. OTHER PAYMENTS.** Mortgagor shall pay to mortgagee any amounts required to be paid to the holder of the First Mortgage (other than payments of principal and interest under said First Mortgage) at least ten days before the last day under each of said mortgages that such payments may be made without constituting a default thereunder and mortgagee agrees promptly to remit such sums so paid to mortgagee by mortgagor to the holder of the First Mortgage in payment of such sums due under said First Mortgage.

**15. ADVANCE OF FUNDS.** The mortgagor shall, in the event that the mortgagee shall default in making any required payment of principal and/or interest under the First Mortgage, have the right to advance the funds necessary to cure such default and all funds so advanced by mortgagor together with interest thereon at the rate of 12% per year shall be credited against the next installment(s) of interest and principal due under the note secured by this mortgage.

**16. ESCROW PAYMENTS.** Mortgagor shall be responsible for any and all escrow payments required to pay for taxes, insurance, waste fees, etc.

**17. EXECUTION OF DOCUMENTS.** Mortgagor covenants and agrees that if and when requested by the mortgagee and/or the Title Company, at the time when the mortgagee acquires the First Mortgage, the owner of the premises will execute such documents as mortgagee or the holder of this mortgage or the note secured hereby may require to evidence the unpaid balance owing to mortgagee or said holder of this mortgage and said note. Mortgagor's failure to furnish such statement within thirty days of the request therefore shall be deemed an acknowledgment by mortgagor that, to mortgagor's best information and belief, no offsets or defenses exist against mortgagor's indebtedness under the note secured hereby and that all regular installment payments thereon and no other have been made.

**18. NOTICES.** Mortgagor and mortgagee agree promptly to send to each other copies of any notices received by them from the holder of the First Mortgage. Mortgagee further agrees to send to mortgagor, at the time mortgagee makes each payment provided herein to be made by mortgagee to such holder of the said First Mortgage a written statement showing that each such payment has been made. A copy of Mortgagee's transmittal letter and or check will constitute sufficient written statement in this regard.

**19. NOTICE OF DEFAULT.** Mortgagor shall promptly furnish to mortgagee copies of all notices of default given to the mortgagor by the holder of the First Mortgage or given to or received from the tenants of the premises or any part or parts thereof by the mortgagor, based on the occurrence or alleged occurrence of any default or defaults in the performance of leases of space tenants occupying any portion of the premises.

**20. DEPOSIT.** Interest shall not, despite any provision to the contrary contained herein, be payable by the mortgagee on any sums deposited with and/or held in trust by the mortgagee pursuant to any provision of this mortgage.

IN WITNESS WHEREOF, the Mortgagor has executed this mortgage on the day and year first above written.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Witnesses

\_\_\_\_\_  
Mortgagor

STATE OF \_\_\_\_\_ COUNTY OF \_\_\_\_\_

I HEREBY CERTIFY that on this day before me, an officer duly qualified to take acknowledgments, personally appeared to me known to be the person described in and who executed the foregoing instrument and acknowledged before me that he executed the same.

WITNESS: my hand and official seal in the County and State last aforesaid this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

\_\_\_\_\_

Notary Public

My Commission Expires: \_\_\_\_\_



## Satisfaction Of Mortgage

Know all men by these presents, that { \_\_\_\_ 1 \_\_\_\_ }, the owner and holder of a certain mortgage deed executed by { \_\_\_\_ 2 \_\_\_\_ }, as mortgagor, to { \_\_\_\_ 3 \_\_\_\_ }, as mortgagee, dated the { \_\_\_\_ 4 \_\_\_\_ } day of { \_\_\_\_ 5 \_\_\_\_ } securing that certain note in the principal sum of \$ { \_\_\_\_ 6 \_\_\_\_ }, and certain promises and obligations set forth in said mortgage deed, upon the property described as follows:

{ \_\_\_\_ 7 \_\_\_\_ }

hereby acknowledges full payment and satisfaction of said note and mortgage deed, and surrenders the same as canceled.

WITNESS my hand and seal this { \_\_\_\_ 8 \_\_\_\_ } day of { \_\_\_\_ 9 \_\_\_\_ }.

Signed, Sealed and Delivered in Presence of:

\_\_\_\_\_

\_\_\_\_\_

Witnesses

Mortgagor

STATE OF \_\_\_\_\_ COUNTY OF \_\_\_\_\_

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid, to take acknowledgements, personally appeared \_\_\_\_\_, to me known to be the person described in and who executed the foregoing instrument and acknowledged before me that it was executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

\_\_\_\_\_

My Commission Expires:

## Subordination Of Mortgage

This Subordination of Mortgage made this 1st, 3rd, 6th, etc. day of March, 1996, between Joe Subordinator, herein designated as the Subordinator and Joe Subordinatee, herein designated as the Subordinatee;

**WHEREAS**, the Subordinator is the holder of a mortgage, originally in the amount of \$70,000.00 and the bond, note or other obligation secured thereby, dated 1st, 3rd, 6th, etc. day of March, 1996, and made by Joe Mortgagor, to Joe Mortgagee upon the lands and premises therein described, lying and being in the County of \_\_\_\_\_ and State of \_\_\_\_\_.

**AND WHEREAS**, a loan of \$120,000.00 has been or is about to be made by the Subordinatee, to Joe Mortgagor, secured or to be secured by a mortgage upon the said lands and premises;

**AND WHEREAS**, the Subordinatee has granted or will grant such loan and accept such mortgage only upon the condition that the aforementioned mortgage held and owned by the Subordinator shall be subordinated and postponed to the mortgage of the Subordinatee.

**NOW THEREFORE**, in consideration of the sum of One Dollar and other good and valuable consideration the receipt whereof is hereby acknowledged, and to induce the Subordinatee to accept such mortgage as security for said loan the Subordinator hereby covenants and agrees that the mortgage of the Subordinator is hereby made and shall continue to be subject, subordinate and inferior in order of priority to the mortgage of the Subordinatee and to all renewals and extensions thereof, notwithstanding the prior execution and recording of the mortgage of the Subordinator.

In all references herein to any parties, persons, entities or corporations, the use of any particular gender or the plural or singular number is intended to include the appropriate gender or number as the text of the within instrument may require.

Wherever in this instrument any party shall be designated or referred to by name or general reference, such designation is intended to and shall have the same effect as if the words "heirs, executors, administrators, personal or legal representatives, successors and assigns" had been inserted after each and every such designation.

**IN WITNESS WHEREOF**, the Subordinator has signed and sealed this subordination, or if a Corporation, has caused this subordination to be signed by its proper corporate officers and its corporate seal to be affixed, the day and year first above written .

Signed, Sealed and Delivered

in the presence of:

\_\_\_\_\_

Witnesses

\_\_\_\_\_

Subordinator(s)

STATE OF \_\_\_\_\_ COUNTY OF \_\_\_\_\_

Before me personally appeared \_\_\_\_\_, to me well known and known to me to be the individual described in and who executed the foregoing instrument, and acknowledged before me that it was executed the same for the purposes therein expressed.

WITNESS my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

\_\_\_\_\_  
Notary Public

## Balloon Mortgage

THIS IS A BALLOON MORTGAGE AND THE FINAL PAYMENT OR THE BALANCE DUE UPON MATURITY IS \$120,000.00 TOGETHER WITH ACCRUED INTEREST, IF ANY, AND ALL ADVANCEMENTS MADE BY THE MORTGAGEE UNDER THE TERMS OF THIS MORTGAGE .

**THIS MORTGAGE DEED**, made and executed the 1st, 3rd, 6th, etc. day of March, 1996, by Joe Buyer, hereinafter called the Mortgagor, which term shall include the heirs, legal representatives successors and assigns, of the said Mortgagor wherever the context so required or admits, to Joe Seller, hereinafter called the Mortgagee, which term shall include the heirs, legal representatives, successors and assigns, of the said Mortgagee wherever the context so requires or admits.

**WITNESSETH:** That for divers good and valuable considerations, and also in consideration of the aggregate sum named in the promissory note of even date herewith hereinafter described, the said Mortgagor does hereby grant, bargain, sell alien, remise, release, convey and confirm unto the said Mortgagee, his heirs, successors and assigns all the certain piece, parcel or tract of land, of which the said Mortgagor is now seized and possessed and in actual possession, described as follows:

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**TO HAVE AND TO HOLD** the same, together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining and the reversion and reversions, remainder and remainders, rents, issues and profits thereof and also all the estate, right, title, interest, property, possession, claim and demand whatsoever as well in law as in equity of the said Mortgagor in and to the same and every part and parcel thereof unto the said Mortgagee, and his heirs, successors and assigns in fee simple.

And said Mortgagor, for himself, and his heirs, legal representatives, successors and assigns, hereby covenants with said Mortgagee, his heirs, legal representatives, successors and assigns, that said Mortgagor is indefeasibly seized of said land in fee simple, that the said Mortgagor has full power and lawful right to convey the same in fee simple as aforesaid; that it shall be lawful for said Mortgagor, his heirs, legal representatives, successors and assigns, at all times peaceably and quietly to enter upon, hold, occupy and enjoy said land and every part thereof; that said land is free from all incumbrances, except those specifically mentioned in this Mortgage; that said Mortgagor, his heirs, legal representatives, successors and assigns, will make such further assurances to perfect the fee simple title to said land in said Mortgagee, his heirs, legal representative, successors and assigns, as may reasonably be required; and that said Mortgagor does hereby fully warrant the title to said land and every part thereof and will defend the same against the lawful claims of all persons whomsoever.

**PROVIDED ALWAYS**, That is said Mortgagor shall pay unto the said Mortgagee the certain promissory note, of which the following in words and figures is a true copy, to-wit:

See EXHIBIT "A"

and shall duly, promptly and fully perform, discharge, execute, effect, complete, comply with and abide by each and every the stipulations, agreements, conditions and covenants of said promissory note and of this mortgage, then this mortgage and the estate hereby created shall cease and be null and void.

It is understood that each of the words, "note, mortgagor and mortgagee" respectively and the pronouns referring thereto, whether in the singular or plural anywhere in this mortgage, shall be singular if one only and shall be plural

jointly and severally, if more than one, and shall be masculine, feminine and/or neuter, wherever the context so implies or admits.

And said Mortgagor for himself and his heirs, legal representatives, successors and assigns, hereby covenants and agrees to and with said mortgagee, his legal representatives, successors and assigns:

**1. PAYMENT.** To pay all and singular the principal and interest and the various and sundry sums of money payable by virtue of said promissory note, and this mortgage, each and every, promptly on the days respectively the same severally become due.

**2. LIABILITY.** To pay all and singular the taxes, assessments, levies, liabilities, obligations and incumbrances of every nature and kind now on said described property, and/or that hereafter may be imposed, suffered, placed, levied or assessed thereupon, and/or that hereafter may be levied or assessed upon this mortgage and/or the indebtedness secured hereby, each and every, when due and payable according to law, before they become delinquent, and before any interest attaches or any penalty is incurred, and in so far as any thereof is of record the same shall be promptly satisfied and discharged of record and the original official document (such as, for instance, the tax receipt or the satisfaction paper officially endorsed or certified) shall be placed in the hands of said Mortgagee within ten days next after payment, and in the event that any thereof is not so paid, satisfied and discharged, said Mortgagee may at any time pay the same or any part thereof without waiving or affecting any option, lien, equity or right under or by virtue of this mortgage, and the full amount of each and every such payment shall be immediately due and payable and shall bear interest from the date thereof until paid at the rate 9.25% per annum and together with such interest shall be secured by the lien of this mortgage.

**3. INSURANCE.** To place and continuously keep on the buildings now or hereafter situate on said land fire and windstorm insurance in the usual standard policy form, in a sum not less than highest insurable value, in such company or companies as may be approved by said Mortgagee, and all such insurance policies on any of said buildings, any interest therein or part thereof, in the aggregate sum aforesaid or in excess thereof, shall contain the usual standard mortgagee clause making the loss under said policies, each and every, payable to said Mortgagee as his interest may appear, and each and every such policy shall be promptly delivered to and held by said Mortgagee; and, not less than ten days in advance of the expiration of each policy, to deliver to said Mortgagee a renewal thereof together with a receipt for the premium of such renewal; and there shall be no such insurance placed on any of said buildings, any interest therein or part thereof, unless in the form and with the loss payable as aforesaid; and in the event any sum of money becomes payable under such policy or policies said Mortgagee shall have the option to receive and apply the same on account of the indebtedness secured hereby or to permit said Mortgagor to receive and use it or any part thereof for other purposes without thereby waiving or impairing any equity, lien or right under or by virtue of this mortgage and in the event said Mortgagor shall for any reason fail to keep the said premises so insured, or fail to deliver promptly any of said policies of insurance to said Mortgagee, or fail promptly to pay fully any premium therefore, or in any respect fail to perform, discharge, execute, effect, complete, comply with and abide by this covenant, or any part hereof, said Mortgagee may place and pay for such insurance or any part thereof without waiving or affecting any option lien, equity or right under or by virtue of this mortgage, and the full amount of each and every such payment shall be immediately due and payable and shall bear interest from the date thereof until paid at the rate of 9.25% per annum and together with such interest shall be secured by the lien of this mortgage.

**4. MAINTENANCE.** To permit, commit or suffer no waste, impairment or deterioration of said property or any part thereof.

**5. CHARGES AND EXPENSES.** To pay all and singular the costs, charges and expenses, including reasonable lawyer's fees and cost of abstracts of title, incurred or paid at any time by said Mortgagee because and/or in the event of the failure on the part of the said Mortgagor to duly, promptly and fully perform, discharge, execute, effect, complete, comply with and abide by each and every the stipulations, agreements, conditions and covenants of said promissory note, and this mortgage, any or either, and said costs, charges and expenses, each and every, shall be immediately due and payable, whether or not there be notice, demand, attempt to collect or suit pending; and the full amount of each and every such payment shall bear interest from the date thereof until paid at the rate of 9.25% per annum; and all said costs, charges and expenses so incurred or paid, together with such interest, shall be secured by the lien of this mortgage.

**6. DEFAULT.** That (a) in the event of any breach of this mortgage or default on the part of the Mortgagor, or (b) in the event any of said sums of money hereunto referred to be not promptly and fully paid within ten days next after the same severally become due and payable, without demand or notice, or (c) in the event each and every the stipulations, agreements, conditions and covenants of said promissory note and this mortgage, any or either, are not duly, promptly and fully performed, discharged, executed, effected, completed complied with and abided by, then, in either or any such event, the said aggregate sum mentioned in said promissory note then remaining unpaid, with interest accrued, and all moneys secured hereby, shall become due and payable forthwith, or thereafter, at the option of said Mortgagee, as fully and completely as if all of the said sums of money were originally stipulated to be paid on such day, anything in said promissory note, and/or in this mortgage to the contrary notwithstanding; and thereupon or thereafter at the option of said Mortgagee, without notice or demand, suit at law or in equity, theretofore, or thereafter begun, may be prosecuted as if all moneys secured hereby had matured prior to its institution.

**7. LITIGATION.** That in the event that at the beginning of or at any time pending any suit upon this mortgage, or to foreclose it, or to reform it, and/or to enforce payment of any claims hereunder, said Mortgagee shall apply to the court having jurisdiction thereof for the appointment of a Receiver, such court shall forthwith appoint a Receiver of said mortgaged property all and singular, including all and singular the rents, income, profits, issues and revenues from whatever source derived, each and every of which, it being expressly understood, is hereby mortgaged as if specifically set forth and described in the granting and habendum clauses hereof, and such Receiver shall have all the broad and effective functions and powers in anywise entrusted by a court to a Receiver and such appointment shall be made by such court as an admitted equity and a matter of absolute right to said Mortgagee, and without reference to the adequacy or inadequacy of the value of the property mortgaged or to the solvency or insolvency of said Mortgagor and/or of the defendants, and that such rents, profits, income, issues and revenues shall be applied by such Receiver according to the lien and/or equity of said Mortgagee and the practice of such court.

**8. PERFORMANCE.** To duly, promptly and fully perform, discharge, execute, effect, complete, comply with and abide by each and every the stipulations, agreements, conditions and covenants in said promissory note and in this mortgage set forth.

**9. JURISDICTION.** It is mutually covenanted and agreed by and between the Mortgagor and the Mortgagee that this mortgage and the note secured hereby constitute a contract and shall be construed according to the laws of the State of \_\_\_\_\_.

**IN WITNESS WHEREOF,** the said Mortgagor has executed this mortgage under seal on the day and year herein first above written.

**THIS IS A BALLOON MORTGAGE AND THE FINAL PAYMENT OR THE BALANCE DUE UPON MATURITY IS \$120,000.00 TOGETHER WITH ACCRUED INTEREST, IF ANY, AND ALL ADVANCEMENTS MADE BY THE MORTGAGEE UNDER THE TERMS OF THIS MORTGAGE.**

Signed, sealed and delivered in the presence of:

\_\_\_\_\_ (Seal)

\_\_\_\_\_ (Seal)

Witnesses

Mortgagor(s)

STATE OF \_\_\_\_\_ COUNTY OF \_\_\_\_\_

Before me personally appeared \_\_\_\_\_, known to me to be the individual described in and who executed the foregoing instrument, and acknowledged before me that it was executed for the same purposes therein expressed.

WITNESS my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

\_\_\_\_\_

Notary Public

My Commission Expires: \_\_\_\_\_

## **Non-Recourse Mortgage**

**THIS INDENTURE**, made as of the 1st, 3rd, 6th, etc. day of, by and between, hereinafter called "Mortgagor", and, hereinafter called "Mortgagee".

**WITNESSETH:**

**AMOUNT OF LIEN: \$120,000**

**WHEREAS**, Mortgagor is justly indebted to Mortgagee in the sum of \$120,000 in lawful money of the United States, and has agreed to pay the same, with interest thereon, according to the terms of a certain note (the "Note") given by Mortgagor to Mortgagee, bearing even date herewith.

**NOW, THEREFORE**, in consideration of the premises and the sum hereinabove set forth, and to secure the payment of the Secured Indebtedness as defined herein, Mortgagor has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell and convey unto Mortgagee property described in Exhibit "A" attached hereto and by this reference made a part hereof; **TOGETHER** with all buildings, structures and other improvements now or hereafter located on, above or below the surface of the property hereinbefore described, or any part and parcel thereof; and,

**TOGETHER** with all and singular the tenements, hereditaments, easements, riparian and littoral rights, and appurtenances thereunto belonging or in anywise appertaining, whether now owned or hereafter acquired by Mortgagor, and including all rights of ingress and egress to and from adjoining property (whether such rights now exist or subsequently arise) together with the reversion or reversions, remainder and remainders, rents, issues and profits thereof; and also all the estate, right, title, interest, claim and demand whatsoever of Mortgagor of, in and to the same and of, in and to every part and parcel thereof; and,

**TOGETHER** with all machinery, apparatus, equipment, fittings, fixtures, whether actually or constructively attached to said property and including all trade, domestic and ornamental fixtures, and articles of personal property of every kind and nature whatsoever (hereinafter collectively called "Equipment"), now or hereafter located in, upon or under said property or any part thereof and used or usable in connection with any present or future operation of said property and now owned or hereafter acquired by Mortgagor; and,

**TOGETHER** with all the common elements appurtenant to any parcel, unit or lot which is all or part of the Premises; and, **ALL** the foregoing encumbered by this Mortgage being collectively referred to herein as the "Premises";

**TO HAVE AND TO HOLD** the Premises hereby granted to the use, benefit and behalf of the Mortgagee, forever.

### **U.C.C. SECURITY AGREEMENT**

It is agreed that if any of the property herein mortgaged is of a nature so that a security interest therein can be perfected under the Uniform Commercial Code, this instrument shall constitute a Security Agreement and Mortgagor agrees to join with the Mortgagee in the execution of any financing statements and to execute any and all other instruments that may be required for the perfection or renewal of such security interest under the Uniform Commercial Code.



## **EQUITY OF REDEMPTION**

Conditioned, however, that if Mortgagor shall promptly pay or cause to be paid to Mortgagee, at its address listed in the Note, or at such other place which may hereafter be designated by Mortgagee, its or their successors or assigns, with interest, the principal sum of \$120,000 with final maturity, if not sooner paid, as stated in said Note unless amended or extended according to the terms of the Note executed by Mortgagor and payable to the order of Mortgagee, then these presents shall cease and be void, otherwise these presents shall remain in full force and effect.

## **ARTICLE ONE**

### **COVENANTS OF MORTGAGOR**

Mortgagor covenants and agrees with Mortgagee as follows:

#### **1.01 Secured Indebtedness.**

This Mortgage is given as security for the Note and also as security for any and all other sums, indebtedness, obligations and liabilities of any and every kind arising, under the Note or this Mortgage, as amended or modified or supplemented from time to time, and any and all renewals, modifications or extensions of any or all of the foregoing (all of which are collectively referred to herein as the "Secured Indebtedness"), the entire Secured Indebtedness being equally secured with and having the same priority as any amounts owed at the date hereof

#### **1.02 Performance of Note, Mortgage, Etc..**

Mortgagor shall perform, observe and comply with all provisions hereof and of the Note and shall promptly pay, in lawful money of the United States of America, to Mortgagee the Secured Indebtedness with interest thereon as provided in the Note, this Mortgage and all other documents constituting the Secured Indebtedness.

#### **1.03 Extent Of Payment Other Than Principal And Interest.**

Mortgagor shall pay, when due and payable, (1) all taxes, assessments, general or special, and other charges levied on, or assessed, placed or made against the Premises, this instrument or the Secured Indebtedness or any interest of the Mortgagee in the Premises or the obligations secured hereby; (2) premiums on policies of fire and other hazard insurance covering the Premises, as required herein; (3) ground rents or other lease rentals; and (4) other sums related to the Premises or the indebtedness secured hereby, if any, payable by Mortgagor.

#### **1.04 Insurance.**

Mortgagor shall, at its sole cost and expense, keep the Premises insured against all hazards as is customary and reasonable for properties of similar type and nature.

#### **1.05 Care of Property.**

Mortgagor shall maintain the Premises in good condition and repair and shall not commit or suffer any material waste to the Premises .

## 1.06 Prior Mortgage.

With regard to the Prior Mortgage, Mortgagor hereby agrees to:

- (i) Pay promptly, when due, all installments of principal and interest and all other sums and charges made payable by the Prior Mortgage;
- (ii) Promptly perform and observe all of the terms, covenants and conditions required to be performed and observed by Mortgagor under the Prior Mortgage, within the period provided in said Prior Mortgage;
- (iii) Promptly notify Mortgagee of any default, or notice claiming any event of default by Mortgagor in the performance or observance of any term, covenant or condition to be performed or observed by Mortgagor under any such Prior Mortgage.
- (iv) Mortgagor will not request nor will it accept any voluntary future advances under the Prior Mortgage without Mortgagee's prior written consent, which consent shall not be unreasonably withheld.

## ARTICLE TWO

### DEFAULTS

#### 2.01 Event of Default.

The occurrence of any one of the following events which shall not be cured within thirty days after written notice of the occurrence of the event, if the default is monetary, or which shall not be cured within thirty days after written notice from Mortgagee, if the default is non-monetary, shall constitute an "Event of Default":

- (a) Mortgagor fails to pay the Secured Indebtedness, or any part thereof, or the taxes, insurance and other charges, as hereinbefore provided, when and as the same shall become due and payable;
- (b) Any material warranty of Mortgagor herein contained, or contained in the Note, proves untrue or misleading in any material respect;
- (c) Mortgagor materially fails to keep, observe, perform, carry out and execute the covenants, agreements, obligations and conditions set out in this Mortgage, or in the Note;
- (d) Foreclosure proceedings (whether judicial or otherwise) are instituted on any mortgage or any lien of any kind secured by any portion of the Premises and affecting the priority of this Mortgage.

#### 2.02 Options Of Mortgagee Upon Event Of Default.

Upon the occurrence of any Event of Default, the Mortgagee may immediately do any one or more of the following:

- (a) Declare the total Secured Indebtedness, including without limitation all payments for taxes, assessments, insurance premiums, liens, costs, expenses and attorney's fees herein specified, without notice to Mortgagor (such notice being hereby expressly waived), to be due and collectible at once, by foreclosure or otherwise;

(b) Pursue any and all remedies available under the Uniform Commercial Code; it being hereby agreed that ten days notice as to the time, date and place of any proposed sale shall be reasonable;

(c) In the event that Mortgagee elects to accelerate the maturity of the Secured Indebtedness and declares the Secured Indebtedness to be due and payable in full at once as provided for in Paragraph 2.02(a) hereinabove, or as may be provided for in the Note, or any other provision or term of this Mortgage, then Mortgagee shall have the right to pursue all of Mortgagee's rights and remedies for the collection of such Secured Indebtedness, whether such rights and remedies are granted by this Mortgage, any other agreement, law, equity or otherwise, to include, without limitation, the institution of foreclosure proceedings against the Premises under the terms of this Mortgage and any applicable state or federal law.

## **ARTICLE THREE**

### **MISCELLANEOUS PROVISIONS**

#### **3.01 Prior Liens.**

Mortgagor shall keep the Premises free from all prior liens (except for those consented to by Mortgagee).

#### **3.02 Notice, Demand and Request.**

Every provision for notice and demand or request shall be deemed fulfilled by written notice and demand or request delivered in accordance with the provisions of the Note relating to notice.

#### **3.03 Meaning of Words.**

The words "Mortgagor" and "Mortgagee" whenever used herein shall include all individuals, corporations (and if a corporation, its officers, employees or agents), trusts and any and all other persons or entities, and the respective heirs, executors, administrators, legal representatives, successors and assigns of the parties hereto, and all those holding under either of them. The pronouns used herein shall include, when appropriate, either gender and both singular and plural. The word "Note" shall also include one or more notes and the grammatical construction of sentences shall conform thereto.

#### **3.04 Severability.**

If any provision of this Mortgage or any other Loan Document or the application thereof shall, for any reason and to any extent, be invalid or unenforceable, neither the remainder of the instrument in which such provision is contained, nor the application of the provision to other persons, entities or circumstances, nor any other instrument referred to hereinabove shall be affected thereby, but instead shall be enforced to the maximum extent permitted by law.

#### **3.05 Governing Law.**

The terms and provisions of this Mortgage are to be governed by the laws of the State of \_\_\_\_\_ . No payment of interest or in the nature of interest for any debt secured in part by this Mortgage shall exceed the maximum amount permitted by law. Any payment in excess of the maximum amount shall be applied or disbursed as provided in the Note in regard to such amounts which are paid by the Mortgagor or received by the Mortgagee.

3.06 Descriptive Headings.

The descriptive headings used herein are for convenience or reference only, and they are not intended to have any effect whatsoever in determining the rights or obligations of the Mortgagor or Mortgagee and they shall not be used in the interpretation or construction hereof.

3.07 Attorney's Fees.

As used in this Mortgage, attorneys' fees shall include, but not be limited to, fees incurred in all matters of collection and enforcement, construction and interpretation, before, during and after suit, trial, proceedings and appeals. Attorneys' fees shall also include hourly charges for paralegals, law clerks and other staff members operating under the supervision of an attorney.

3.08 Exculpation.

Notwithstanding anything contained herein to the contrary, the Note which this Mortgage secures is a non-recourse Note and such Note shall be enforced against Mortgagor only to the extent of Mortgagor's interest in the Premises as described herein and to the extent of Mortgagor's interest in any personalty as may be described herein.

IN WITNESS WHEREOF, the Mortgagor has caused this instrument to be duly executed as of the day and year first above written .

_____	_____
_____	_____
Witnesses	Mortgagor(s)

STATE OF: \_\_\_\_\_ COUNTY OF: \_\_\_\_\_

THE FOREGOING instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_, by \_\_\_\_\_.

\_\_\_\_\_

My Commission Expires: \_\_\_\_\_

## Lease With Option

This Indenture, made and executed this { \_\_\_1\_\_\_ } day of { \_\_\_2\_\_\_ }, by and between { \_\_\_3\_\_\_ }, hereinafter called the Lessor, and { \_\_\_4\_\_\_ }, hereinafter called the Lessee.

Witnesseth: That for and in consideration of the sum of \$ { \_\_\_5\_\_\_ } to the Lessor paid by Lessee, receipt of which is hereby acknowledged by Lessor, and for and in the further consideration of the payment of the rents and the performances of the covenants contained herein on the part of the Lessee and in the manner hereinafter stated, the Lessor does hereby demise, lease and let to the Lessee, and in consideration of the premises, the Lessee does hereby lease, hire, and take from the Lessor upon the terms and conditions hereinafter set forth, the following described property:

{ \_\_\_6\_\_\_ }

For the term of { \_\_\_7\_\_\_ } commencing on the { \_\_\_8\_\_\_ } day of { \_\_\_9\_\_\_ } and to end on { \_\_\_10\_\_\_ } day of { \_\_\_11\_\_\_ }, at and for the total rent or sum of \$ { \_\_\_12\_\_\_ }, payable monthly in advance, in installments of \$ { \_\_\_13\_\_\_ } each in lawful money of the United States of America, on the first day of each and every calendar month.

This lease is made subject to the following terms and conditions:

1. Said Lessee agrees to pay said rents to said Lessor at the time and in the manner herein provided, without any deduction whatever and free of and from all claims and demands against said Lessor of any kind or character.
2. Should the said Lessee fail to pay any part of the rents herein specified, at the times or in the manner herein provided, or fail faithfully to comply with or perform any other of the terms, conditions covenants and agreements of this lease on the part of said Lessee to be performed or complied with, or should said Lessee abandon the said Lessor and said Lessee shall have all the rights and remedies as provided for by law, and in any of said events, said Lessor shall be forthwith entitled to the possession of said leased premises, and may enter into and upon said leased premises, without notice to said Lessee and exclude said Lessee therefrom and from in any manner having access thereto, and remove all persons and property therefrom, and by process of law, or otherwise, take and resume possession of said leased premises, and in the removal of such property, the said Lessor shall in nowise be responsible or liable either to said Lessee, or to any other person whomsoever, for any such property or the safekeeping thereof, or for any damage whatsoever thereto or to any part thereof, and said Lessor is hereby further authorized to store such removed property in any warehouse or other place at the expense and for the account of said Lessee; or else, even though said Lessee has breached any of the provisions of this lease and has abandoned the said leased premises, said Lessor and said Lessee shall have all the rights and remedies as provided, so long as this lease, and said Lessee's rights to the possession of the leased premises, are not terminated by said Lessor. The rights of said Lessor under this section 2 of this lease shall be cumulative to all other rights or remedies given to said Lessor by law or by the terms of this lease.

3. That said leased premises shall be used, occupied and conducted exclusively as and for:

{ \_\_\_14\_\_\_ }

and for no other purpose; and shall be used, occupied and conducted in a thoroughly orderly and respectable manner, without let, hindrance, annoyance, disturbance, detriment, injury or offense to the Lessor; that said Lessee shall

not maintain or commit, nor suffer to be maintained or committed any nuisance or waste in or about said leased premises; that said Lessee shall not do or permit anything to be done in or about the said leased premises, nor bring or keep anything therein, which will in any way affect fire or other insurance on said building or any of its contents, or which shall in any way conflict with any law, ordinance, rule or regulation affecting the occupancy and use of said premises which are or may hereafter be enacted or promulgated by any public authority.

Lessee shall not construct, maintain or permit to be constructed or maintained, any sign or bill board on the roof of the building located on said demised premises, nor paint, nor hang, nor permit or authorize others to paint or hang, any sign on the outside walls thereof, unless written permission to do so be first obtained from the Lessor.

4. Said Lessee hereby agrees not to assign this lease or any interest therein nor let or underlet the whole or any part of said leased premises without the written consent of said Lessor first had and obtained, and that neither this lease, nor any interest therein shall be assigned or assignable, either by operation of law or otherwise. Said Lessor agrees not to unreasonably withhold such consent.

**PROVIDED ALSO**, and these presents are upon this covenant, that if the Lessee do or shall neglect or fail to perform or observe any of the covenants contained in these presents and on its part to be observed and performed for ten days after notice by the Lessor, or if the estate hereby created shall be taken on execution, and such execution shall not be satisfied, cancelled or otherwise removed within thirty days after notice by Lessor, or if the Lessee shall be adjudicated bankrupt or insolvent according to law, or if any assignment of its property shall be made for the benefit of creditors, then and in any of said cases the Lessor lawfully may enter into and upon the said premises or any part thereof in the name of the whole, and repossess the same as of the former estate of the Lessor and expel the Lessee and those claiming under and through it and remove its effects (forcibly if necessary) without being deemed guilty of any manner of trespass, and without prejudice to any remedies which might otherwise be used for arrears of rent or preceding breach of covenant, and upon entry as aforesaid this lease shall determine, and the Lessee covenants that in case of such termination it will indemnify the Lessor against all loss of rent which the Lessor may incur by reason of such termination, during the residue of the term above specified .

5. Said Lessee agrees that the said leased premises are now in tenantable and good order and condition and that said Lessee shall keep and maintain said premises in good and sanitary order and condition, and that no alteration, repair or change whatever shall be made in or about said leased premises without the written consent of the Lessor, and that unless otherwise provided by written agreement, all alterations, improvements and changes that may be required shall be done by or under the direction of the Lessor but at the cost of the Lessee; that all alterations, additions and improvements made in and to said leased premises shall, unless otherwise provided by written agreement be the property of the Lessor and shall remain upon, and be surrendered with said leased premises; that said Lessee shall not mar or deface in any manner the walls, woodwork, or any other part of said leased premises; that all damage or injury done to the premises or property of said Lessor by said Lessee, or by any person who may be in or upon the premises, with the consent of the Lessee, shall be paid for by the Lessee at the time the damage or injury is inflicted; and that said Lessee shall, at the termination of this lease, surrender said leased premises to the Lessor in as good order and condition as reasonable and proper use thereof will permit.

6. In the event of the inability of the Lessor to deliver possession of said leased premises at the time herein fixed for the commencement of the term of this lease, neither the Lessor nor the agent of said Lessor shall be liable for any damages caused thereby, nor shall this lease thereby become void or voidable, but in such event the Lessee shall not be liable for any rent until such time as the Lessor can deliver possession.

7. Said Lessee shall at least thirty days before the date of the expiration of this lease give to said Lessor a written notice of intention to surrender said leased premises on said date; if such notice is not given, then said Lessee shall

be liable for rent of one additional month in the event that he shall have vacated said premises, at the expiration of the term of this lease.

8. If said Lessee holds possession of said premises after the expiration of the term of this lease, such Lessee shall become a tenant from month to month only upon the terms herein specified, but at a monthly rental of \$ { 15 } per month payable monthly in advance in said lawful money of the United States on the day of each month and shall continue to be such tenant until such tenancy and shall at the expiration of such month have vacated and surrendered possession of said leased premises to said Lessor.

9. That if the said building or the said leased premises shall be destroyed by fire or other cause or be so damaged thereby that they become untenable and cannot be rendered tenantable within ninety days from the date of the injury this lease may be terminated by the Lessor; that in case said premises shall be so damaged as not to require a termination of the lease as above provided, then a proportionate allowance shall be made to the Lessee for the rent herein before reserved corresponding to the time during which and to the portion of the premises of which the Lessee shall be so deprived. The Lessor shall be sole judge as to whether such damage has caused said building or premises to be untenable, and as to whether they can be rendered tenantable within ninety days from the date of the injury.

10. Said Lessor shall have the right at all times during the term of this lease to enter said leased premises for the purpose of examining or inspecting the same, and of making such repairs or alterations therein or in other parts of said building as said Lessor shall deem necessary in connection with said premises, or said building.

11. Lessee agrees to pay during the term hereof, all charges made against said premises for water rates, gas, electric lights, power, heat, telephone and garbage disposal services, and for any other commodities furnished or supplied or used in or upon or about said premises.

12. The Lessor agrees to maintain the roof over said demised premises in good order and repair and repairs to said roof shall be made by and at the expense of the Lessor, but without liability for failure so to do unless first notified by Lessee in writing of the necessity thereof.

13. Said Lessee hereby waives all claims for damages that may be caused by the Lessor in re-entering and taking possession of the said leased premises as herein provided or for loss or injury of, by or arising out of theft, burglary, fire, steam, gas, electricity, or defect in the building, or by or out of the breaking, leakage, or overflow of the roof, or of any pipe, sewer or plumbing, or by or out of the destruction or injury of the building, or any part thereof, or by or out of the making of any repairs, alterations, additions, or improvements to said building, or any part thereof, or by reason of loss of property, or injury or damage to person or property occurring in said leased premises or in or about said building no matter how caused .

14. This lease shall be subject and subordinate at all times to the lien of any mortgage or trust deed or deeds which may now exist upon or which may be placed upon the demised premises or the property of which the demised premises are a part and the Lessee covenants that it will execute and deliver to the Lessor or the nominee of the Lessor proper subordination agreements to this effect at anytime upon the request of the Lessor and without payment being made therefor.

15. Each and every covenant and term hereof to be kept and performed by the Lessee is expressly made a condition, upon breach whereof said Lessor may terminate this lease and exercise all rights of entry and re-entry upon said leased premises, herein provided for.

16. The failure or omission of said Lessor to terminate this lease, for any violation of any of its terms, conditions or covenants shall in nowise be deemed to be a consent by the Lessor to such violation, and shall in nowise bar, stop or prevent said Lessor from terminating this lease thereafter, either for such or for any subsequent violation of any such term, condition or covenant. The acceptance of rent hereunder shall not be, or be construed to be, a waiver of any breach of any term, covenant or conditions of this lease.

17. That in each suit brought for the recovery of any rent due hereunder, or for the recovery of the dispossession of said demised premises, or for the breach of any of the terms, conditions or covenants of this lease, wherein said Lessor shall prevail, said Lessee shall pay said Lessor a reasonable sum as and for attorney's fees therein, the amount of which shall be determined by the court in such suit and added to and become part of the judgment therein.

18. The service of any and all notices of any nature and description given by said Lessor to said Lessee, when given to said Lessee or else when mailed to said Lessee addressed to said Lessee to said leased premises shall be deemed to be and constitute full and complete notice to said Lessee and shall constitute full compliance with any of the provisions of this lease or of the laws of the State of { \_\_\_ 16 \_\_\_ } requiring personal service of notice upon said Lessee and shall constitute notice to said Lessee for any purpose whatsoever.

19. It is further covenanted and agreed by said Lessee that nothing herein contained and no security or guarantee which may now or hereafter be furnished said Lessor for the payment of the rent herein reserved or for the performance by said Lessee of the other terms or covenants of this lease, shall in anyway be a bar or defense to any action in unlawful detainer, or for the recovery of said premises, or in any action which said Lessor may at any time commence for breach of any of the terms or covenants of this lease.

20. The word "Lessor" and the word "Lessee" as used herein include the plural as well as the singular. The neuter gender when used here, shall include the masculine and feminine.

21. This lease shall include and inure to and bind the heirs, executors, administrators, successors and assigns of the respective parties hereto, but nothing in this paragraph contained shall be construed to modify or impair in any manner any of the provisions and restrictions of this lease relating to the assignment of this lease or of any interest therein, or to the subletting or underletting of said leased premises or any part thereof.

22. The Lessee agrees that this instrument contains all of the provisions of the agreement between the parties hereto, and that no promise or agreement not contained herein shall be binding on the Lessor.

23. Time is the essence of this agreement.

24. Provided Lessee is not then in default under any of the terms and conditions of this lease, he shall have the option to purchase the leased premises on the following terms and conditions:

(a) the total purchase price shall be \$ { \_\_\_ 17 \_\_\_ }.

(b) the period during which Lessee may exercise his option to purchase these premises commence the { \_\_\_ 18 \_\_\_ } day of { \_\_\_ 19 \_\_\_ } and to end on { \_\_\_ 20 \_\_\_ } day of { \_\_\_ 21 \_\_\_ }. Such exercise of option shall be in writing, signed by Lessee and delivered to Lessor.

(c) Lessee shall pay Lessor the purchase price of the premises as follows:



(d) Lessee shall secure his obligation to pay Lessor the unpaid balance of the purchase price by the execution and recording of a Mortgage or Deed of Trust in form and of priority satisfactory to Lessor.

(e) If Lessee exercises his option and desires a policy of title insurance, he shall pay the cost thereof. Taxes shall be prorated to the date of close of escrow. The last month's rent deposited hereunder shall be credited toward the purchase price to the extent not exhausted prior thereto.

In Witness Whereof, said parties have executed this lease the day and year first above written.

\_\_\_\_\_

\_\_\_\_\_

Witnesses

## Residential Lease With Option

**THIS AGREEMENT** made and entered into on the {\_\_1\_\_} day of {\_\_2\_\_} by and between {\_\_3\_\_}, hereinafter referred to as "Lessor", and {\_\_4\_\_} hereinafter referred to as "Lessee". Lessors lease to Lessees all the goods and chattels detailed in the inventory designated as Schedule "A" annexed hereto and specifically made a part hereof, and also that certain dwelling house situated at and more particularly described as follows:

{\_\_5\_\_}

together with all appurtenances for a period of {\_\_6\_\_} months to commence on the {\_\_7\_\_} day of {\_\_8\_\_} and to end on {\_\_9\_\_} day of {\_\_10\_\_} at 12:00 Midnight.

**1. RENT.** Lessees agree to pay, without demand, to Lessors as monthly rent for the demised premises and the goods and chattels detailed in Schedule "A", or any amendment thereof, the sum of \$ {\_\_11\_\_}.

**2. SECURITY & OPTION.** Upon the execution of this lease, the Lessees shall pay unto the Lessors, the first month's rent as well as the sum of \$ {\_\_12\_\_} as security for the faithful performance by Lessees of the terms hereof, to be returned to Lessees, without interest, on the full and faithful performance by them of the provisions hereof, plus the sum of \$ {\_\_13\_\_} for the option to purchase the aforementioned property. This sum is nonrefundable.

**3. USE.** The Lessees shall use the premises hereby leased exclusively for a private residence. The Lessees shall not assign this lease, nor sub-let the premises, or any part thereof, nor use the same, or any part thereof, nor permit the same, or any part thereof, to be used for any other purpose than as above stipulated, nor make any alterations therein, and additions thereto without the written consent of the Lessors, and all additions fixtures or improvements which may be made by Lessees, except movable furniture, shall become the property of the Lessors and remain upon the premises as a part thereof, and be surrendered with the premises at the termination of this lease.

**4. PERSONAL PROPERTY.** All personal property placed or moved in the premises above described shall be at the risk of the Lessees or owner thereof, and Lessors shall not be liable for any damage to said personal property, or to the Lessees arising from any act of negligence of any co-tenant or occupants of the building or of any other person whomsoever.

**5. COMPLIANCE.** The Lessees shall promptly execute and comply with all statutes, ordinances, rules, orders, regulations and requirements of the Federal, State and City Government and of any and all their Departments and Bureaus applicable to said premises, for the correction, prevention, and abatement of nuisances or other grievances, in, upon, or connected with said premises during said term; and shall also promptly comply with and execute all rules, orders and regulations of the Southeastern Underwriters Association for the prevention of fires, at their own cost and expense.

**6. FIRE.** That in the event the premises are destroyed or so damaged by fire or other unavoidable casualty as to be unfit for occupancy or use, then the rent hereby reserved, or a fair and just proportion thereof, according to the nature and extent of the damage sustained, shall, until the said premises shall have been rebuilt or reinstated, be suspended and cease to be payable, or this lease shall, at the election of the Lessor, thereby be determined and ended, provided, however, that this agreement shall not be construed so as to extend the term of this lease or to render the Lessor liable to rebuild or replace the said premises.

**7. ACCEPTANCE.** Lessees hereby accept the premises in the condition they are in at the beginning of this lease and agrees to maintain said premises in the same condition, order and repair as they are at the commencing of said term, excepting only reasonable wear and tear arising from the use thereof under this agreement, and to make good to said Lessors immediately upon demand any damage to water apparatus, or electric lights or any fixture, appliances or appurtenances of said premises, or of the building, caused by any act or neglect of Lessees, or of any person or persons in the employ or under the control of the Lessees.

**8. TERMS OF CONTRACT.** It is understood and agreed between the parties hereto that time is of the essence of this contract and this applies to all terms and conditions contained herein.

**9. NOTICE.** It is understood and agreed between the parties hereto that written notice mailed or delivered to the premises hereunder shall constitute sufficient notice to the Lessees and written notice mailed or delivered to the office of the Lessors shall constitute sufficient notice to the Lessors, to comply with the terms of this contract.

**10. RIGHTS.** The rights of the Lessors under the foregoing shall be cumulative, and failure on the part of the Lessors to exercise promptly any rights given hereunder shall not operate to forfeit any of the said rights.

**11. UTILITIES.** The Lessees shall be responsible for the payment of all utility bills (water, electricity, telephone, etc.) and all repairs and maintenance specifically including, but not limited to glass breakage and all doors and screens. The Lessors will be responsible for all structural repairs, meaning the roof, exterior walls and foundation.

**12. REPAIRS.** The Lessees will permit the Lessors or their agent, at any reasonable time, to enter said premises or any part thereto for the purpose of exhibiting the same or making repairs thereto.

**13. RECOVERY.** Lessees will pay the costs of proceedings by Lessors for recovery of rents or for recovery of the possession of the premises or for the enforcement of any of the terms and conditions of this Lease, including a reasonable attorneys fee.

**14. EMINENT DOMAIN.** If the leased premises, or any part thereof are taken by virtue of eminent domain, this lease shall expire on the date when the same shall be so taken and the rent shall be apportioned as of said date. No part of any award, however, shall belong to the Lessees.

**15. BENEFIT.** All covenants and agreements of this lease shall be binding upon and inure to the benefit of the heirs, executors, administrator and assigns of the Lessor and Lessee, without affecting the restrictions imposed by Section 3 hereof .

**16. ABANDONMENT.** If any time during the term of this lease, Lessees abandon the demised premises or any part thereof, Lessors may, at their option, enter the demised premises by any means without being liable for any prosecution therefor, and without becoming liable to Lessees for damages or for any payment of any kind whatever, and may, at his discretion, as agent for Lessees, relet the demised premises, or any part thereof, for the whole or any part of the then unexpired term, and may receive and collect all rent payable by virtue of such reletting, and, at Lessors' option hold Lessees liable for any difference between the rent that would have been payable under this Lease during the balance of the unexpired term, if this lease had continued in force and the net rent for such period realized by Lessors by means of such reletting. If Lessors' right of re-entry is exercised following abandonment of the premises by Lessees, then Lessors may consider any personal property belonging to Lessees and left on the premises to also have been abandoned, in which case Lessors may dispose of all such personal property in any manner Lessor shall deem proper and is hereby relieved of all liability for doing so.

**17. CHATTELS.** The said Lessees hereby pledge and assign to the Lessors all the furniture fixtures, goods and chattels of said Lessees which shall or may be brought or put on said premises as security for the payment of the term herein reserved, and the Lessees agree that the said lien may be enforced by distress foreclosure or otherwise at an election of the said Lessors, and do hereby agree to pay attorney's fees of ten percent of the amount so collected or found to be due, together with all costs and charges therefore incurred or paid by the Lessors.

**18. VALIDITY.** It is expressly agreed between the parties that if any clause of this lease be found unconscionable it shall not affect the validity of the remainder of this lease.

**19. ENTIRE AGREEMENT.** Neither party has made any representation or promise, except as contained herein, or in some further writing signed by the party making such representation or promise.

**20. INSPECTIONS.** Prior to the leasehold period, the Lessors, at their own expense, shall provide the Lessees with a certificate from a licensed roofer showing that the roof is in good condition and repair. Also, the Lessors shall provide the Lessees with a certificate from a licensed and bonded exterminator showing that there is no evidence of termite infestation in improvements on said property. Should a roof repair or a termite eradication be required, the Lessors shall perform the same at their own expense. The Lessees shall examine the leasehold premises to determine that the premises are in good and inhabitable condition and if they are not, said leasehold period shall not commence until the premises are in such inhabitable condition. In addition, the Lessees shall examine said premises and prepare a list of those items damaged at the commencement of the leasehold period.

**21. PURCHASE.** Lessees shall have the option to purchase said premises for the purchase price of \$ { \_\_\_ 14 \_\_\_ }. This option may be exercised at any time during the lease period upon notice to the Lessors in writing. The Lessees shall place with { \_\_\_ 15 \_\_\_ } the option payment specified in paragraph (2) above paid by the Lessees to the Lessor in escrow as earnest money towards the purchase of said property. { \_\_\_ 16 \_\_\_ }% of all rents paid by the Lessee up to the time of the exercise of the option shall be credited to the down payment. The Lessor shall take back a mortgage for the balance of the purchase price at an interest rate of { \_\_\_ 17 \_\_\_ }% being payable \$ { \_\_\_ 18 \_\_\_ } per month for a total of { \_\_\_ 19 \_\_\_ } years. Should the Lessees exercise their option, the Lessors shall have thirty days to provide Lessees with an updated abstract showing their title to be good, marketable, and insurable. The Lessees shall close the transaction within thirty days from the delivery of said abstract. This lease shall terminate upon the closing of the subject property and the Lessees shall not be liable for any rent subsequent to the closing date. All monies put up for security shall be returned to the Lessees at that time.

**22. CONTEXT.** The terms Lessor and Lessee as herein contained shall include singular and/or plural, masculine, feminine, and/or neuter, heirs, successors, personal representatives and/or assigns wherever the context so requires or admits.

IN WITNESS WHEREOF, the said parties have hereunto set their hands and seals this day aforesaid mentioned.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Lessor(s)

\_\_\_\_\_  
Lessee(s)

## Short Form Lease

**THIS LEASE**, executed this {\_\_1\_\_} day of {\_\_2\_\_}, in consideration of the following covenants, agreements, limitations and conditions entered into by the parties hereto for themselves, their heirs, successors, legal representatives and assigns {\_\_3\_\_}, hereinafter called Landlord, does hereby lease unto {\_\_4\_\_}, hereinafter jointly, severally and collectively called the tenant, the property described as follows:

{\_\_5\_\_}

Said property is to be occupied only for the purposes of:

{\_\_6\_\_}

unless written consent of Landlord to occupy for other purposes is first obtained. The terms of this lease are to commence on the {\_\_7\_\_} day of {\_\_8\_\_}, and end on the {\_\_9\_\_} day of {\_\_10\_\_}, at the rent of \$ {\_\_11\_\_} per {\_\_12\_\_}.

In addition, the sum of \$ {\_\_13\_\_} has been paid as security deposit and will be returned by Lessor herein no later than {\_\_14\_\_} days after Lessee has vacated the premises, providing there are no violations or breaches of this lease on the part of the Lessee herein.

1. PROVIDING ALWAYS, and the tenant hereby covenants as follows to pay the rent punctually in advance on the first day of each and every month during the said term to the Landlord, at:

{\_\_15\_\_}

2. Tenant further agrees to make any and all repairs to the said premises plumbing, fixtures, wiring, etc, where the damage was in any way caused by the fault or negligence of the said tenant; will at the end of this lease surrender and deliver up said premises, without demand, in as good order and condition as when entered upon, loss by fire, inevitable accident, ordinary wear and decay only excepted.

3. That in the event the premises are destroyed or so damaged by fire or other unavoidable casualty as to be unfit for occupancy or use, then the rent hereby reserved, or a fair and just proportional thereof, according to the nature and extent of the damage sustained, shall, until the said premises shall have been rebuilt or reinstated, be suspended and cease to be payable, or this lease shall, at the election of the Landlord, thereby be determined and ended, provided, however that this agreement shall not be construed so as to extend the terms of this lease or to render the landlord liable to rebuild or replace the said premises.

4. To permit the Landlord or his agent, at any reasonable time to enter said premises or any part thereof for the purpose of exhibiting the same or making repairs thereto.

5. To pay all charges for electricity, water and gas used on said premises; not to hold the Landlord responsible for any delay in the installation of electricity, water, or gas, of meters therefor, or interruption in the use and services of such commodities.

6. Not to use the demised premises, or any part thereof, or permit the same to be used for any illegal, immoral or improper purposes; not to make, or permit to be made, any disturbances, noise or annoyance whatsoever detrimental to the premises or the comfort and peace of the inhabitants to the vicinity of the demised premises.

7. It is further understood and agreed between the parties hereto, that if default is made in the payment of rent as above set forth of any part thereof, or if said tenant shall violate any of the covenants and conditions of this lease, then the tenant shall become a tenant at sufferance, thereby waiving all right of notice to vacate said premises, and the said Landlord shall be entitled to re-enter and re-take possession immediately of the demised premises; that if any installment of rent shall remain unpaid for three (3) days after written notice of such non-payment shall have been served on the said tenant, or posted in a conspicuous place on said premises, then the entire rental to the end of this lease shall become at once due and payable without demand and may be recovered forthwith by distress or otherwise, and in all proceedings under this lease for the recovery of rent in arrears, whether said rent accrued before or after the expiration of his lease, and whether by distress or other action at law, the said tenant hereby waives the benefit of homestead and other exemption laws, any law to the contrary notwithstanding, and agrees to pay the Landlord an attorney's fee of 15% of amount so collected, together with all costs of such collection and in the event tenant is evicted by suit at law said tenant agrees to pay to said Landlord all costs of such suit, including a reasonable attorney's fee; that no assent, expressed or implied, to any breach of one or more of the covenants and agreements hereof shall be deemed or taken to be a waiver of any succeeding or other breach.

**AND IT IS FURTHER UNDERSTOOD AND AGREED** that all covenants and agreement of this lease shall be binding upon and apply to the heirs, executors, legal representatives, and assigns of the respective parties hereto.

**IN WITNESS WHEREOF**, the said parties have hereunto set their hands and seals the day and year first above written.

Signed and sealed in the presence of:

## Residential Lease Agreement

**THIS AGREEMENT** made and entered into this 1st, 3rd, 6th, etc. day of March, 1996, by and between Joe Landlord, hereinafter referred to as "Lessor"; and Joe Tenant, hereinafter referred to as "Lessee";

**1. PROPERTY:** Lessor leases to the Lessee that certain residence described as:

**2. TERM:** The term of this lease shall be for a period of 6 months, 1 year, etc., commencing the 1st, 3rd, 6th, etc. day of March, 1996, and ending the 1st, 3rd, 6th, etc. day of March, 1996.

**3. RENTAL:** Lessee shall pay unto the Lessor the sum of \$450.00 on the above described day of each month during the term of this lease, said sums being delivered to Lessor at the address so designated by Lessor.

**4. SECURITY:** Lessee has deposited with the Lessor the sum of \$250.00 as security for the full and faithful performance by the Lessee of all terms and covenants contained herein.

**5. USE:** The property shall be occupied by Lessee and family, consisting of 2 adults and 2 children. Lessee agrees to use the property for residential purposes only. No animals or pets shall be permitted upon the subject property.

**6. BROKERAGE:** No real estate agents are involved in this transaction, nor are any entitled to brokerage commission as a result of this Lease Agreement.

**7. DAMAGE TO PROPERTY:** Should the property be partially damaged by casualty not due to the negligence of Lessee, or person having the consent of Lessee, the property shall be repaired immediately by Lessor and any rentals for the period that the property is untenantable shall be abated. However, should the property suffer substantial damages, Lessor may elect to terminate this lease, and rentals shall be adjusted up to the date of casualty.

**8. CONDEMNATION:** Should the subject property, or part thereof, be taken by the exercise of condemnation, eminent domain or other governmental action, this lease shall terminate.

### **9. LESSEE'S OBLIGATIONS:**

a. Maintain the subject property in the same condition as when leased, excepting only the reasonable use of said property.

b. Comply with all applicable housing, building and health codes.

c. Pay for all utilities utilized, including electricity, gas, water, sewer and telephone.

d. Keep the property clean and sanitary.

e. Keep all plumbing fixtures in repair.

f. Remove all garbage from the property.

g. Use the facilities and appliances in a reasonable manner.

- h. Refrain from damaging Lessor's property.
- i. Conduct himself, and others on the property with his consent, in a reasonable manner.
- j. Provide Lessor with a key and access to the property.

**10. LESSOR'S OBLIGATION:**

- a. Comply with all applicable housing, building and health codes.
- b. Maintain all basic structural and service components of the property so that same are capable of resisting normal forces and loads.

**11. RIGHT OF ENTRY:** Lessor shall have the right of entry upon the property to inspect the same, make repairs and exhibit the property to others, provided that such entry is at reasonable times.

**12. LIABILITY:** Lessee accepts the condition of the subject property, waiving inspection of same by Lessor, and repair of defects, if any. Lessee further agrees to indemnify Lessor against any loss or liability arising out of Lessee's use of the property, including those using the property with Lessee's consent. However, such indemnification shall only be applicable to the extent that Lessor's loss is not covered by insurance proceeds.

**13. TAXES:** Any taxes that may be imposed by governmental authority, whether they be sales, use, or resort taxes, shall be the obligation of Lessee.

**14. ASSIGNMENT:** Lessee may not make an assignment of this lease, nor sublet any part of the subject property, without prior written consent, which consent shall not be unreasonably refused by Lessor.

**15. DEFAULT:** In the event of a default, by either party, of any of the terms herein contained, the non-defaulting party shall be entitled to all remedies under law, reasonable attorney's fees and court costs. Should it become necessary for Lessor to apply any part of the security to correct a default, Lessee agrees to restore the security to its original amount.

**16. PERSONAL PROPERTY:** Lessee shall be responsible for insuring his own personal property. Any personal property placed upon the subject property shall be at the sole risk of Lessee. Any property of Lessee remaining upon the leased premises after the termination of this lease shall be presumed abandoned, and may be disposed of by Lessor.

**17. FURNISHED PROPERTY:** If the subject premises are rented furnished, Lessee acknowledges receipt of inventoried furnishings in good condition. A copy of said inventory shall be attached hereto.

**18. HOUSE:** If the subject property is a house or townhouse, then Lessee shall be responsible for waste removal, exterminating service, yard and pool maintenance.

**19. ALTERATIONS AND IMPROVEMENTS:** Lessee shall make no alterations to the subject property without Lessor's prior written consent. Any improvements made by Lessee shall become the property of Lessor at the conclusion of the lease.



**20. WAIVER AND SEPARABILITY:** The waiver of any one breach of any provisions in this lease shall not be considered a waiver of that or any other provision herein. Should any portion of this lease be adjudged invalid, such invalidation shall not operate to invalidate the remaining provisions hereof.

**21. BINDING EFFECT:** This agreement shall be binding upon the parties hereto, their heirs, successors, assigns and legal representatives .

**22. ENTIRE AGREEMENT:** This lease constitutes the entire agreement between the parties, and may not be modified, unless in writing and executed by the parties.

**IN WITNESS WHEREOF** the parties hereto have executed the foregoing Lease Agreement the day and year first above written .

Signed, sealed and delivered in the presence of:

\_\_\_\_\_

\_\_\_\_\_  
Witnesses as to LESSOR

LESSEE:

\_\_\_\_\_

\_\_\_\_\_  
Witnesses as to LESSEE

## Mobile Home Lot Lease Agreement And Security Deposit Receipt

THIS INDENTURE, made this {\_\_1\_\_} day of {\_\_2\_\_} between {\_\_3\_\_}, hereinafter designated the Lessor, and {\_\_4\_\_}, hereinafter designated the Lessee,

WITNESSETH:

That the said Lessor does by these presents lease and demise unto the said Lessee the mobile home lot situated at {\_\_5\_\_}, upon the following terms and conditions.

1. Term: The premises are leased for a term of {\_\_6\_\_}, commencing the {\_\_7\_\_} day of {\_\_8\_\_}, and ending the {\_\_9\_\_} day of {\_\_10\_\_}. IF THE ABOVE TERM IS MONTHLY, LESSEE HEREBY WAIVES THE RIGHT TO A TERM OF ONE YEAR OR MORE, HAVING FIRST BEEN OFFERED SUCH YEARLY TERM ON CONDITIONS NO MORE BURDENSOME TO LESSEE THAN THE MONTHLY TERM OFFERED. This waiver is only valid for a period of one year from date and upon expiration of one year from date and upon expiration of one year Landlord shall again offer a monthly tenant a new term of one year.

2. Rent: The Lessee shall pay rent in the amount of \$ {\_\_11\_\_} per month for the above premises on the

{\_\_12\_\_} day of each month in advance to Lessor at {\_\_13\_\_} plus additional charges of

\$ {\_\_14\_\_} for:

{\_\_15\_\_}

which are also due monthly and are to be paid on same date as rent. Charges that are to be paid by Lessee less frequently than monthly shall be submitted to Lessee in a written itemized bill and shall be paid by Lessee on the next monthly rental payment due date, and are as follows:

The monthly rent shall be increased only by prior written notice of three months or more preceding the beginning of any month or period of tenancy. In case of increase of rent, it is understood that all other provisions of this agreement shall remain in full force, changed only by the increase in the amount of rent.

Lessee agrees to pay a late charge of \$ {\_\_16\_\_} per month if all rent and additional charges are not received on or before the date provided herein or if a check is returned for any reason. Upon non-payment of rent or other charges when due, Lessee(s) shall be given written notice of five days to pay such plus a late charge or vacate.

3. Utilities: Lessee shall pay for service and utilities supplied to the premises, except which will be furnished by Lessor.

4. Sublet: The Lessee agrees not to sublet said premises nor assign this agreement nor any part thereof without the prior written consent of Landlord, and then only if Lessee(s) have given Lessor fifteen days prior written notice of such intended assignment or sublease. Lessor shall approve or disapprove assignment on the same basis that Lessor approves or disapproves any new tenant.

**5. Lessee's Obligations: Lessee shall**

(a) Keep said premises in a clean and sanitary condition;

(b) Properly dispose of rubbish, garbage and waste in a clean and sanitary manner at reasonable and regular intervals and to assume all costs of extermination and fumigation for infestation caused by Lessee;

(c) Properly use and operate all electrical; gas, heating, plumbing facilities, fixtures and appliances;

(d) Not intentionally or negligently destroy, deface, damage, impair or remove any part of the premises, their appurtenances, facilities, equipment, furniture, furnishings, and appliances, nor to permit any member of family, invitee, licensee or other person acting under this control to do so;

(e) Not permit a nuisance or common waste.

**6. Maintenance of Premises:** Lessee agrees to mow and water the grass and lawn, and keep the grass, lawn, flowers and shrubbery thereon in good order and condition, and to keep the sidewalk surrounding said premises free and clear of all obstructions; to replace in a neat and workmanlike manner all glass and doors broken during occupancy thereof; to use precaution against freezing of water or waste pipes and stoppage of same in and about said premises and that in case water or waste pipes are frozen or become clogged by reason or neglect of Lessee, the Lessee shall repair the same at his own expense as well as damage caused thereby, and to generally keep the leased premises in reasonably good and attractive condition .

**7. Alterations:** Lessee agrees not to make alterations or do or cause to be done any painting to said premises without the prior written consent of Lessor.

**8. Use of Premises:** Lessee shall not use said premises for any purpose other than that of a residence and shall not use said premises or any part thereof for any illegal purpose. Lessee agrees to conform to municipal, county and state codes, statutes, ordinances and regulations concerning the use and occupation of said premises. Lessor shall maintain the premises in substantial conformance with all applicable provisions of municipal, county and state codes, statutes, ordinances and regulations governing maintenance or operation of such premises.

(a) Immediately notify Tenant, by certified mail or updated posting, of any changes as to the person or address of the Lessor;

(b) Maintain all structural components and roads in good repair; free from unsightly objects and conditions: and prevent the accumulation and detrimental effects of water;

(c) Keep common areas reasonably clean and safe from defects increasing the hazards of fire or accident;

(d) Provide a reasonable program for the control of infestation by weeds and noxious plant growth, insects, rodents, and other pests at the initiation of the tenancy, provided however, that Landlord shall not be held responsible where infestation is caused by the Tenant;

(e) Maintain all electrical, plumbing, heating and other facilities and appliances supplied by him in reasonably good working order .

9. Access: Lessor shall have the right to place and maintain "for rent" signs in a conspicuous place on said premises for thirty days prior to the vacation of said premises. Lessor reserves the right of access to the premises for the purpose of:

(a) Inspection

(b) Repairs, alterations or improvements;

(c) To supply services; or

(d) To exhibit or display the premises to prospective or actual purchasers, mortgagees, tenants, workmen or contractors.

Access shall be at reasonable times except in case of emergency or abandonment and in all other cases Lessor shall obtain the prior written consent to access from the Tenant. Lessor shall respect the privacy of Tenant.

10. Solicitation: Door to door solicitation in the mobile home complex is expressly prohibited.

11. Surrender of Premises: In the event of default in payment of any installment of rent or at the expiration of said term of this lease, Lessee(s) will quit and surrender the said premises to Lessor. Termination shall be by written notice of at least one month, preceding the end of any rental term, given by either party to the other: provided, Tenant may terminate upon thirty days written notice if a change in employment requires a change in residence and Tenant shall not be liable for rental thereafter unless Landlord is reasonably unable to rent the lot for a fair rental; and provided further, any tenant who is a member of the annual forces may terminate upon less than thirty days notice if his reassignment orders do not allow greater notice.

12. Security and Damage Deposit: The Lessee has deposited the sum of \$ {     17     }, receipt of which is hereby acknowledged, which sum shall be deposited by Landlord in a trust account. All or a portion of such deposit may be retained by Landlord and a refund of any portion of such deposit is conditioned as follows:

(1) Lessee shall occupy said premises for term agreed to above;

(2) Lessee shall clean, repair and restore said premises and return the same to Landlord in its initial or better condition, except for reasonable wear and tear, upon termination of this tenancy and vacation of residence;

(3) Lessee shall surrender to Lessor the keys to premises;

(4) A portion of the aforementioned deposit is to be retained by the Lessor as a non-refundable cleaning fee in the amount of \$ {     18     }. Any refund from deposit, as by itemized statement shown to be due to Lessee, shall be returned to Lessee within fourteen days after termination of this tenancy and vacation of the premises.

13. Rules and Regulations: The rules and regulations of the complex including rules for guest parking, are annexed hereto and expressly made a part of this agreement and Lessee hereby acknowledge receipt of a true copy of same.

Substantial or repeated violation of the rules and regulations of the mobile home complex may, at Lessor's option, result in termination of Lessee's tenancy. Lessee shall be given written notice of any such violations and fifteen days in which to comply or vacate. In case of a periodic rather than continuous violation, written notice shall specify that the same violation repeated shall result in termination.

14. Eviction: This agreement may be terminated by the Lessor for any of the reasons stated herein or in any manner provided by law. If Lessee continues in possession of the premises after termination by Lessor, or after the expiration of this lease as provided above, Lessee agrees to pay to Lessor, as liquidated damages, the sum of \$ { \_\_\_ 19 \_\_\_ } per day for each day Lessee remains in possession. Such liquidated damages shall be in addition to any reasonable costs, expenses, and attorney's fees provided for above. Notice of eviction shall contain the specific reason therefor.

Lessee agrees that he has examined the premises and lot, and is satisfied with the condition of same, and accepts the premises and lot in their present condition, except:

IN WITNESS WHEREOF, the Lessee(s) and Lessor, or his agent, each hereunto sets his hand the day and year first written and acknowledges receipt of a copy hereof.

\_\_\_\_\_  
Lessor(s)

\_\_\_\_\_  
Lessee(s)

\_\_\_\_\_  
Lessor(s)

\_\_\_\_\_  
Lessee(s)

## Lease Extension

This Agreement made and entered into this {\_\_1\_\_} day of {\_\_2\_\_}, by and between {\_\_3\_\_}, hereinafter referred to as Landlord and {\_\_4\_\_}, hereinafter referred to as Tenant.

WHEREAS Landlord and Tenant have herebefore entered into a Lease Agreement dated the {\_\_5\_\_} day of {\_\_6\_\_}; and thereby creating a tenancy beginning the {\_\_7\_\_} day of {\_\_8\_\_}, and ending the {\_\_9\_\_} day of {\_\_10\_\_}.

1. The parties to this agreement hereby agree to renew the said lease for a term of {\_\_11\_\_} beginning {\_\_12\_\_} day of {\_\_13\_\_}, and ending the {\_\_14\_\_} day of {\_\_15\_\_}.

2. All terms, provisions and covenants of the above-described lease shall remain in full force for the duration of the extended term, except as noted.

3. In connection with this renewal, the rent, payable monthly, shall be \${\_\_16\_\_} per month, making a total rental of \${\_\_17\_\_} payable under this agreement.

4. Additional terms and conditions, if any, as agreed to by the parties are as follows:

\_\_\_\_\_  
Landlord

\_\_\_\_\_  
Tenant

## Apartment Rules And Regulations

### Care of Apartment

1. No birds, cats, dogs or other animals shall be maintained in or about the premises without the written consent of the owner, or his agent.
2. Ashes, garbage, sweepings, dirt, litter or refuse shall be wrapped and deposited in waste receptacles for that purpose.
3. The water shall not be left running in bathroom, kitchen or elsewhere in the demised premises, and all leaks shall be immediately reported to the caretaker.
4. Signs or placards shall not be posted in or about the demised premises or building.
5. The toilets, sinks and wash-basins are to be used for the purpose for which they are intended, and no dust, rubbish, litter, coffee grounds, tea leaves, egg shells, parings or garbage are to be put into same unless a waste disposal system for such purposes has been installed.
6. No piano or other musical instruments shall be permitted to be played later than 9:00 P.M. or before 9:00 A.M., nor shall music be taught or permitted to be taught — either vocal or instrumental. No practicing whatever shall be permitted.
7. Brooms, mops, toys and other articles shall not be left in any area other than the proper storage area for such items.
8. Tenants must not drive nails in walls.
9. Tenants must keep that part of the premises which they occupy and use as clean and sanitary as the conditions of the premises permit.
10. Laundry washing and maintenance of washing machines within the apartment units are prohibited. Tenant shall not use bath tubs, basin, nor kitchen sink for laundry purposes. Damage to the plumbing equipment resulting from this or any other abnormal use of the equipment must be repaired at the expense of the tenant.
11. When individual heating equipment, electric range, refrigerator or other automatic equipment is included in the rental unit for the sole use of the occupant, such equipment shall be kept in a state comparable to that which it was in at the time of occupancy by tenant, except for reasonable wear and tear.

### Use of Halls, Roof, Etc.

1. Children positively are not allowed to play in corridors, entrance halls, on the roof or in the basement.
2. No window sills, fire escapes, ledges or light shafts shall be used for storage purposes. No public halls or passageways shall, in any way, be obstructed by packages, boxes or otherwise.

3. All furniture, provisions, supplies, carts, material, etc., shall be received and delivered via the rear, basement, or other entrance denominated for such purpose.

4. Tenants are not permitted access to the roof except in case of emergency or by permission of manager.

#### Use of Laundry

1. Use of laundry includes the facilities only. Hot water is supplied for laundry purposes only during the regular heating hours.

2. Laundry room may be used only during the time allotted the tenant by the manager, and laundry must be removed before closing time in the evening.

3. The Management reserves the right to refuse the tenant the use of the laundry and storeroom and all other building facilities for failure to comply with laws and ordinances governing safety, health and sanitation, or for disregarding the rules pertaining to such facilities.

4. Use of the laundry and its facilities shall be limited to the washing of the usual personal and household articles. No cleaning with inflammable materials, nor dyeing will be permitted.

The owners or agents will not be responsible for any articles lost, stolen or damaged on these premises. The owner and agent reserve the right to make such additional rules and regulations as they may deem necessary.



## Agreement For Early Use

In consideration of mutual promises herein set forth, { \_\_\_1\_\_\_ }, Purchaser and { \_\_\_2\_\_\_ }, Seller of the property legally described as:

{ \_\_\_3\_\_\_ }

hereby stipulate and agree as follows:

Seller agrees that Purchaser may use and/or occupy the premises prior to closing on the following terms and conditions:

1. **PRORATIONS.** Prorations shall be as of the date of occupancy and not as of the date of closing.
2. **LIABILITY INCIDENTAL TO USE.** Purchaser agrees to assume all liability incidental to his possession and occupancy of the premises to the same extent as if he were the legal owner, and Purchaser agrees to indemnify and hold Seller harmless from any and claims of any nature or any expenses, including attorney fees, arising out of the purchaser's occupancy of the premises prior to closing and further agrees to release and forever discharge the Seller, his heirs, executors and assigns from all claims, demands and actions of any kind or nature which may arise as a result of such use and occupancy.
3. **CONDITION OF PREMISES.** Purchaser affirms without reservation or condition that he inspected or caused to be inspected all of said premises, equipment and appliances covered by the contract and finds them to be as represented and in satisfactory working order and accepts said premises, equipment and appliances in "as is" condition as of the date of occupancy .
4. **CONTRACT DEPOSIT.** Purchaser represents that he delivered to { \_\_\_4\_\_\_ }, agent for the Seller, a further sum of \${ \_\_\_5\_\_\_ } making a total deposit paid on said contract of \${ \_\_\_6\_\_\_ }.
5. **OCCUPANCY FEE.** Purchaser agrees that he shall pay to the Seller at time of closing a further sum as described below.
  - A. Rental during the period of early occupancy in the amount of \${ \_\_\_7\_\_\_ } per week, or \${ \_\_\_8\_\_\_ } per day, payable at closing.
  - B. A sum equal to the combined per diem cost to Seller of interest, real estate taxes and insurance during the period of early occupancy.

Dated this day of \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Seller

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Seller

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Purchaser

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Purchaser

## Agreement For Continued Use And Occupancy

In consideration of the mutual promises herein set forth \_\_\_\_\_ as Purchaser, and \_\_\_\_\_ as Seller, named in that certain contract dated the 1st, 3rd, 6th, etc. day of \_\_\_\_\_, 19\_\_\_\_, regarding the following described real property:

\_\_\_\_\_

hereby stipulate and agrees as follows:

Purchaser agrees that Seller may use and/or retain possession of said premises after closing date of the 1 st, 3rd, 6th, etc. day of \_\_\_\_\_, 19\_\_\_\_, until the \_\_\_\_\_ day of \_\_\_\_\_ at the per diem rate of \$30.00 commencing the \_\_\_\_\_ day of \_\_\_\_\_ on the following terms and conditions:

Seller agrees to assume all liability incidental to his use, possession and occupancy of the premises to the same extent as if he was the owner, and Seller agrees to indemnify and hold Purchaser harmless from any and all claims of any nature or any expenses, including attorney's fees arising out of the Sellers' occupancy of the premises prior to release of possession and further agree to release and forever discharge the Purchaser, his heirs, executors and assigns from all claims, demands and actions of any kind or nature which may arise as a result of such use and occupancy.

Dated this day of \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Seller

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Seller

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Purchaser

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Purchaser

## Equity Sharing Lease Agreement

THIS AGREEMENT, made and entered into this {\_\_1\_\_} day of {\_\_2\_\_} by and between {\_\_3\_\_} (hereinafter referred to as "Nonresident"); and {\_\_4\_\_} (hereinafter referred to as "Resident").

WITNESSETH:

For and in consideration of the mutual benefits to be derived by each party, Nonresident hereby agrees to rent to the Resident that dwelling located at:

{\_\_5\_\_}

{\_\_6\_\_}

for a term commencing on the {\_\_7\_\_} day of {\_\_8\_\_} and monthly thereafter until the last day of {\_\_9\_\_} after which time this Agreement is terminated without further notice. In consideration of Nonresident permitting them to occupy the above property, the Resident hereby agrees to the following terms and conditions:

1. **RENT:** To pay as rental the sum of \$ {\_\_10\_\_} per month due and payable monthly in advance from the first day of every month. Resident agrees to pay a late charge of \$ {\_\_11\_\_} for each and every time rent is not received by Nonresident prior to 5:00 P.M. on the date due, regardless of the cause, including dishonored checks, time being of the essence.

2. **USE:** To use the premises as the primary residence of the Resident.

3. **APPLIANCES:** Rental payments specifically excludes all appliances of any kind. Such appliances as are in the property are there solely at the convenience of the Nonresident who assumes no responsibility for their operation. In the event any of the appliances become unsatisfactory after occupancy has started, the Resident may have them repaired at no cost to Nonresident.

4. **UTILITIES:** To be responsible for payment of all utilities, garbage, water, telephone, gas or other charges incurred during their occupancy.

5. **ACCEPTANCE:** To accept said dwelling and all furnishings and appliances therein as being in good and satisfactory condition. Resident understands that all appliances and other personal property are the sole responsibility of Resident.

6. **MAINTENANCE:** Resident agrees not to permit any deterioration (other than normal wear and tear) of the premises during the term of this Agreement. This clause includes, but is not limited to, woodwork, floors, walls, furnishings, fixtures, appliances, windows, screens, doors, plumbing, electrical, air conditioning, heating, and mechanical systems.

Exterior: Resident and Nonresident shall according to their ownership interest share any expense to maintain and repair the roof, foundation and exterior walls of the building, except repair necessitated by nuisances or neglect of the property by the Resident.

**Interior:** Resident shall at his own expense maintain and repair the interior of the building and fixtures belonging thereto. Resident further agrees to pay for damage caused by rain, or wind resulting from leaving windows open; overflow of water or stoppage of waste pipes.

**Lawn/Landscaping:** Resident agrees to maintain the lawns and shrubbery. Should, in Nonresident's sole discretion, the lawn or shrubbery need mowing, trimming, or watering, Nonresident will so notify the Resident. If within three days if the Resident has not remedied the situation, Nonresident will hire professional services and charge the Resident an additional fee on the next month's rent. Resident also agrees that any vehicles found parked on unpaved areas may be towed away at the Resident's expense.

**Alterations:** Resident shall not paint, paper, or otherwise redecorate or make alterations to the premises without the prior written consent of Nonresident.

**8. ENTRY AND INSPECTION:** Resident agrees to give Nonresident or its agent within reasonable hours the right of entry in order to show said premises for rent, sale, repair, or inspection as well as access to repairment for the purposes of maintaining and repairing said property, which shall be done in the sole discretion of Nonresident.

**9. TERMINATION:** In accordance with states statutes, after one month's rental payment has been received, this Agreement may be terminated by mutual consent to the parties; or by either party giving written notice at least thirty days prior to the end of any monthly period. Any provision of this Agreement may be reasonably changed by the owner in like manner, thus, **THIS RENTAL CONTRACT ESTABLISHES A MONTH TO MONTH TENANCY ONLY!** Termination of this contract prior to the ending date of the Agreement, regardless of cause, will constitute abandonment of any renewal, option rights or entitlement to any performance bonus.

**10. DEFAULT:** In case of default of any of the covenants herein, Nonresident may enforce the performance of this Agreement in any modes provided by law and the Resident hereby waives any statutory notice of such default. This Agreement may be forfeited at the Nonresident's discretion if such default continues for a period of three days and thereupon this Agreement shall cease and come to an end as if they were the day originally fixed herein for the expiration of the term and Nonresident's and/or its agents shall have the right, without further notice or demand, to reenter and remove all persons and occupants and property therefrom without being guilty in any manner of trespass, or without any prejudices to any remedies for arrears of rent or breach of covenants. Nonresident may resume possession of their premises and relet the same through the remainder of the term at the best rent Nonresident may obtain for account of the Resident who shall make good any deficiency, including the cost of reletting. In the event of cancellation or termination of this Agreement by Nonresident under the option provided for herein, Nonresident shall deduct from the Resident's security deposit (if any) all unpaid rentals and damages and charges for which the Resident is liable hereunder; any balances shall be returned to the Resident.

**11. LEGAL RESOURCE/ATTORNEYS' FEES:** Resident agrees to pay all court costs and attorneys' fees incurred by the Nonresident enforcing legal action or in any of Nonresident's other rights under this Agreement or any law of this state. All rights given to the Nonresident by this Agreement shall be cumulative in addition to any other laws which might exist or become into being.

**12. WAIVER:** The acceptance by the Nonresident of partial payments of rent due shall not, under any circumstances, constitute a waiver of the Nonresident, or affect any notice or legal proceedings in unlawful detainers theretofore given or commenced under the state statutes.

**13. INDEMNIFICATION:** Nonresident shall not be liable to the Resident or any other person for any damages to person or property occasioned by any defects in the dwelling, or by any other cause, or an act, omission or neglect

of the Resident or any other occupant of said dwelling, and Resident agrees to hold Nonresident and its agents harmless from any and all claims from any such damages, whether the injury occurs on or off the premises.

**14. HOLDOVER:** Any holding over by the Resident of these premises after the expiration or other termination of this Agreement shall operate and be construed as a tenancy at sufferance at double the rental rate provided above, prorated by the day, and the Resident agrees to surrender the premises upon 24 hours oral or written notice.

**15. CHANGES:** The provisions of this Agreement may be changed or added by Nonresident by giving notice to the Resident in writing.

**16. COMPETENCE:** In the event repairs are needed beyond the competence of the Resident, he or she is urged to arrange for profession assistance. The Resident warrants that any work or repairs performed by the Resident will be undertaken only if he or she is competent and qualified to perform it, and the person performing the work will be totally responsible for all activities to assure that they are done in a safe manner which meet all the applicable statutes. The Resident further warrants that he or she will be accountable for any mishaps or accidents resulting from such work and will hold the Nonresident free from harm, litigation or other claims of any other person.

IN WITNESS WHEREOF, this Agreement is entered into on the date first above written.

\_\_\_\_\_

\_\_\_\_\_

Witness

Nonresident

\_\_\_\_\_

\_\_\_\_\_

Witness

Resident

# Equity Sharing Escrow Agreement

## Condition Transfer-Establishment of Escrow

1. Nonresident acknowledges that all documents relating to the transfer of a { \_\_\_1\_\_\_ }% interest to Nonresident shall be held in escrow by { \_\_\_2\_\_\_ }, an independent third party, as Escrow Agent, for a period of { \_\_\_3\_\_\_ } months following the date of signing of the Equity Sharing Agreement. Transfer of said interest shall be contingent upon faithful performance by Nonresident as to all articles of the Equity Sharing Agreement. Said performance shall include, but not be limited to, payment as described in the Equity Sharing Agreement on or before the first of each month, time being of the essence.

2. During the escrow period and upon receipt from Resident of written notification of default, with specific reference made to paragraph(s) of the Equity Sharing Agreement in default, the Escrow Agent shall return all documents to Resident. Escrow Agent shall be deemed merely to be following escrow instructions contained in this Addendum Number One and shall have no liability whatsoever arising from its action accomplished in good faith.

3. In the event of default by Nonresident during the escrow period, all sums paid by Nonresident to Resident shall be deemed leasehold consideration only.

4. Ten days prior to the close of the escrow period, Resident shall provide written notification to Escrow Agent of compliance by Nonresident with the terms of the Equity Sharing Agreement. After receipt of said written notification and upon close of escrow period, Escrow Agent shall record title transfer.

IN WITNESS WHEREOF, this Agreement is entered into on the date first above written.

\_\_\_\_\_  
\_\_\_\_\_  
Witness Nonresident

\_\_\_\_\_  
\_\_\_\_\_  
Witness Resident

STATE OF \_\_\_\_\_ COUNTY OF \_\_\_\_\_

Before me personally appeared \_\_\_\_\_, known to me to be the individual described in and who executed the foregoing instrument, and acknowledged before me that it was executed for the same purposes therein expressed.

WITNESS my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

## Quit-Claim Deed

THIS INDENTURE, made this { \_\_\_ 1 \_\_\_ } day of { \_\_\_ 2 \_\_\_ }, by and between { \_\_\_ 3 \_\_\_ }, hereinafter referred to as the party of the first part and { \_\_\_ 4 \_\_\_ }, hereinafter referred to as the party of the second part,

WITNESSETH, that the said party of the first part, for and in consideration of One Dollar (\$1.00) in hand paid by the said party of the second part, and for other good and valuable consideration, the receipt whereof is hereby acknowledged, has remised, released and quit-claimed and by these presents does remise, release and quit-claim unto the said party of the second part, and its heirs and assigns, forever, all the right, title, interest, claim and demand which the said party of the first part has in and to the following described lot, piece or parcel of land to wit:

{ \_\_\_ 5 \_\_\_ }

TO HAVE AND TO HOLD THE SAME, together with all and singular, the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest and claim whatsoever of the said party of the first part, either in law or equity, to the only proper use, benefit and belief of the said party of the second part its heirs and assigns, forever.

IN WITNESS WHEREOF, the said party of the first part has hereunto set its hand and seal the day and year first above written .

Signed, sealed and delivered in the presence of:

\_\_\_\_\_ (SEAL)

\_\_\_\_\_ (SEAL)

STATE OF: \_\_\_\_\_ COUNTY OF: \_\_\_\_\_

THE FOREGOING INSTRUMENT was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, by \_\_\_\_\_.

\_\_\_\_\_

My Commission Expires: \_\_\_\_\_

## Promissory Note

US \$ { \_\_\_ 1 \_\_\_ }

DATE: { \_\_\_ 2 \_\_\_ }

For Value Received, the undersigned borrower(s) promise(s) to pay { \_\_\_ 3 \_\_\_ }, or order, the principal sum of \$ { \_\_\_ 1 \_\_\_ } with interest on the unpaid principal balance from the date of this Note, until paid, at the rate of { \_\_\_ 4 \_\_\_ }% per annum. Principal and interest shall be payable at { \_\_\_ 5 \_\_\_ } or such other place as the Note holder may designate, in consecutive monthly installments of \$ { \_\_\_ 6 \_\_\_ } on the first day of each month beginning { \_\_\_ 7 \_\_\_ }. Such monthly installments shall continue until the entire indebtedness evidenced by this Note is fully paid, except that any remaining indebtedness, if not sooner paid, shall be due and payable on { \_\_\_ 8 \_\_\_ }.

**PAYMENT ACCELERATION.** If any monthly installment under this Note is not paid when due and remains unpaid after a date specified by a notice to Borrower, the entire principal amount outstanding and accrued interest thereon shall at once become due and payable at the option of the Note holder. The date specified shall not be less than thirty days from the date such notice is mailed. The Note holder may exercise this option to accelerate during any default by the Borrower regardless of any prior forbearance. If suit is brought to collect this Note, the Note holder shall be entitled to collect all reasonable costs and expenses of suit, including, but not limited to, reasonable attorney's fees.

**LATE CHARGES.** Borrower shall pay to the Note holder a late charge of 10.0% of any monthly installment not received by the Note holder within ten days after the installment is due.

**APPLICATION OF PAYMENT.** Borrower may prepay the principal amount outstanding in whole or in part. The Note holder may require that any partial prepayments (i) be made on the date monthly installments are due and (ii) be in the amount of that part of one or more monthly installments which would be applicable to principal. Any partial prepayment shall be applied against the principal amount outstanding and shall not postpone the due date of any subsequent monthly installments or change the amount of such installments, unless the Note holder shall otherwise agree in writing.

**OBLIGATION OF MAKERS.** Presentment, notice of dishonor, and protest are hereby waived by all makers, sureties, guarantors and endorsers hereof. This Note shall be the joint and several obligation of all makers, sureties, guarantors and endorsers, and shall be binding upon them and their successors and assigns.

**NOTICE.** Any notice to Borrower provided for in this Note shall be given by mailing such notice by certified mail addresses to Borrower at the Property Address stated below, or to such other addresses as Borrower may designate by notice to the Note holder. Any notice to the Note holder shall be given by mailing such notice by certified mail, return receipt requested, to the Note holder at the address stated in the first paragraph of this Note, or at such other address as may have been designated by notice to Borrower.

\_\_\_\_\_  
(SEAL)

\_\_\_\_\_  
(SEAL)



## Option To Purchase Real Estate

**THIS AGREEMENT**, Made this 1st, 3rd, 6th, etc. day of March, 1996, by and between Joe Seller, hereinafter called Optionor, and Joe Buyer, hereinafter called Optionee.

**WITNESSETH**, That for and in consideration of the sum of \$45,000.00 paid by Optionee to Optionor, the receipt whereof is hereby acknowledged, the Optionor hereby gives and grants unto the Optionee, his heirs, personal representatives, and assigns, the right of purchasing, on or before the 1st, 2nd, 3rd, etc. day of March, 1997, the following described real estate:

\_\_\_\_\_

for the total purchase price of \$100,000.00 of which the sum of \$10,000.00 shall be paid in cash and the balance of \$90,000.00 shall be paid as follows:

with interest thereon at the rate of 10.75%, per annum.

If the Optionee elects to purchase the said real estate pursuant to this Option, Optionee shall give written notice of such to Optionor, by registered or certified mail, to the above stated address on or before the 1st, 2nd, 3rd, etc. day of March, 1997.

If the Optionee shall so elect to purchase said real estate, and shall mail a written notice of such election as herein provided within the time required, and shall tender the required amount of cash and deliver a promissory note for the balance, properly executed and payable in accordance with the terms agreed to herein, together with a real estate mortgage or deed of trust, real estate contract or other security acceptable to Optionor, securing said note, on the real estate hereinabove particularly described, then Optionor agrees to convey the real estate to Optionee, his heirs and assigns, by warranty deed, free and clear of all liens, encumbrances, or taxes, to the date of closing of the purchase. Optionor further agrees, that upon such election by Optionee, to deliver to Optionee, within thirty days after receipt of such written notice of election to purchase, an abstract of title or a policy of title insurance in the full sum of \$70,000.00 showing merchantable title to said real estate, and Optionee shall have a reasonable time, not to exceed five days, to examine the title insurance and to complete and close said purchase. If the Optionee does not exercise the privilege of purchase herein given and does not fully perform the conditions herein within the time herein stated, the privilege shall wholly cease and terminate and the sum herein paid by Optionee shall be retained by Optionor.

**IN WITNESS WHEREOF**, the parties have executed this agreement the day and year first above written.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Optionor

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Optionee

STATE OF: \_\_\_\_\_ COUNTY OF: \_\_\_\_\_

**I HEREBY CERTIFY** that on this day, before me, an officer duly qualified to take acknowledgments, personally appeared \_\_\_\_\_ known to me to be the person described in and who executed the foregoing instrument and acknowledged before me that he executed the same.

WITNESS: my hand and official seal in the County and State last aforesaid this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

## Option Clauses

The following is a list of option clauses which can be added to the option agreement.

1. **OPTION TO RENEW:** For an in consideration of \$ \_\_\_\_\_, the optionee hereby grants to the optionor the right to extend the option to which this document is attached for a period of \_\_\_\_\_.
2. **APPLYING RENT TOWARD PURCHASE:** For and in consideration of the mutual promise made by the parties, each to the other, the parties do hereby agree that \_\_\_\_\_% of the total rent payments made by the tenant on the lease attached hereto shall be applied toward reducing the purchase price. Additional terms of the option are contained in the option agreement attached hereto.
3. **FIRST REFUSAL:** The tenant shall have the right of first refusal to purchase the property at the price and terms of any bona fide written offer made for it. Said right to be exercised by notifying the landlord by registered mail within \_\_\_\_\_ days of his receiving written notice that such a bona fide offer has been made. Upon submission of a valid contract by seller, optionor has 30 days to exercise the option or this contract shall become null and void.
4. **PREPAYMENT CLAUSE:** The mortgagor shall have the right to prepay this mortgage, in whole or in part, at any time without penalty after \_\_\_\_\_ year(s).

## Trust Agreement

This agreement, made and executed between \_\_\_\_\_ a Joint Venture, and \_\_\_\_\_ trustee, and the Joint Venturers is to establish the responsibilities of the trustee to the Joint Venture and the individual venturers.

The property which is the subject matter of this trust is described as follows:

[Legal Description of Property]

1. The property shall be held by the trustee on behalf of and for the use and benefit of the Joint Venture named above. The trustee shall hold legal title to the property. The Joint Venture shall have beneficial title.
2. The Trustee shall receive copies of all documentation relating to the Joint venture Agreement, including all notices of termination and other documents required by the Joint Venture Agreement.
3. The Trustee shall receive copies of all contracts for the purchase or sale of the property as well as receive all contracts for services to be provided by any Real Estate Agent, listing agent, management agent or the services of any other person. The trustee shall render opinion on those contracts upon being requested by the managing venturer.
4. The term of this Trust Agreement shall commence on the date of signing of this agreement and on transfer to the trustee of the property.
5. Definitions used in this agreement:
  - a. Individual Venturer: The Individual Venturer named in the Joint Venture Agreement.
  - b. Corporate Venturer or Managing Venturer: Properties Capital International, Inc.

### Responsibilities of the Trustee:

1. The trustee shall take and hold legal title to the property.
2. The trustee shall review and execute the terms of the Joint Venture Agreement as required of the trustee. The Joint Venture Agreement is hereby made a part of this trust agreement.
3. The trustee shall represent the Joint Venture in the real estate purchase transaction whereby the Joint Venture purchases the property described above, and thereafter hold legal title to the property.

4. The trustee shall, within the terms of the Joint Venture agreement, make the Joint Venturers aware of any local legal matters, laws, rules, regulations, or ordinances, that may have any impact on the relationship of the parties or any other matter relating to the Joint Venture Agreement.

5. The Trustee shall be responsible for representation of the Joint Venture on sale or other disposition of the property.

6. The Trustee shall forward all funds received on behalf of the Joint Venture to the managing venturer as soon as practicable after receipt.

7. The Trustee shall immediately transmit to both venturers any notices, documents, contracts or other information coming into the possession or knowledge of the Trustee, or assure that the information or documents have been received by both venturers.

8. The Trustee shall make its position and address known to the tax assessor's office, any local (to the trustee) financing institution having an interest in the property, any Real Estate Agent or local property manager, and receive duplicates of all communications from said persons and assure that such information or documents have been received by both venturers.

9. Originals of all documents, notices, contracts shall be forwarded to the managing venturer.

10. The trustee shall be responsible to receive and hold, pursuant to the terms of the Joint Venture Agreement, all checks for the sale of the property or sums pursuant to the sections of the Joint venture Agreement relating to withdrawal or termination and account for same in the normal course of business.

11. The trustee's fees shall be paid from the Joint Venture account. Attached is an agreed fee structure for the trustees fees. Statements shall be mailed to the address of the Managing Venturer. Fees shall be disbursed by the Managing Venturer.

12. All authorizations, questions, requests for opinions, opinions, management decisions, fees or fee agreements shall be approved by or transmitted through the offices of the Managing Venturer.

This Trust Agreement is executed this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_ by and between the following parties.

\_\_\_\_\_  
Attorney at Law  
Trustee

\_\_\_\_\_  
(name) Individual Venturer









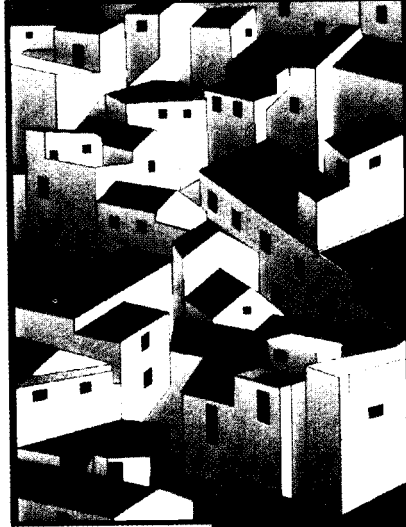












# Real Estate Mastery System