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SAMPLE

REAL ESTATE PURCHASE AND SALE CONTRACT

This Real Estate Purchase And Sale Contract (this "Contract") is entered into by and between the Federal Deposit Insurance Corporation (the "FDIC"), **[check one]** as Receiver for _____ in its corporate capacity ("Seller"), and _____, **[check one]** an individual a _____ ("Purchaser").

Section 1. Sale and Purchase. Seller hereby agrees to sell and convey to Purchaser without warranty, except as set forth in the Deed (hereinafter defined), and Purchaser hereby agrees to purchase and accept from Seller, for the Purchase Price (hereinafter defined) and on and subject to the terms and conditions herein set forth:

(a) that certain tract or parcel of land situated in _____ County, _____, commonly known as _____, and described in Exhibit "A" attached hereto and incorporated herein for all purposes, together with all rights and appurtenances pertaining thereto, including, but not limited to, any right, title and interest of Seller in and to adjacent streets, alleys or rights-of-way (the "Land"); and

(b) any buildings and other improvements situated on the Land, together with all fixtures and other property attached thereto (hereinafter collectively called the "Improvements"). The Land and the Improvements, if any, are hereinafter collectively called the "Property."

Section 2. Purchase Price: Earnest Money.

(a) The purchase price (the "Purchase Price") for which Seller agrees to sell and convey the Property to Purchaser, and which Purchaser agrees to pay to Seller, subject to the terms hereof, is the amount of _____ AND NO/100 DOLLARS (\$ _____), which shall be paid by wired funds, cashier's or certified check at Closing (hereinafter defined). Additionally, if any personal property is to be conveyed hereunder, as provided for in Section 20 hereof, Purchaser shall pay Seller at Closing the amount of \$ _____ for such personalty, over and above the Purchase Price.

(b) Concurrently with the execution hereof, Purchaser has delivered to **[check one]** Seller a cashier's or certified check payable to Seller the Settlement Agent (as hereinafter defined in Section 6.(a)) a cashier's or certified check payable to the Settlement Agent in the amount of \$ _____ as earnest money hereunder (the "Earnest Money"). The Earnest Money check shall immediately be presented for payment and the Earnest Money shall be deposited in a non-interest bearing account and applied to the Purchase Price at Closing. In the event of default hereunder, the Earnest Money shall either be retained by Seller or refunded to Purchaser in accordance with the provisions of this Contract.

(c) Purchaser has delivered to Seller concurrently herewith, Purchaser's check in the amount of one hundred dollars (\$100.00) (the "Option Fee"), which sum the parties bargained for and agreed to as consideration for the exclusive right to purchase the Property pursuant to the terms hereof. The Option Fee is in addition to and independent of any other consideration or payment provided in this Contract, is not refundable, and shall be retained by Seller notwithstanding any other provision of this Contract.

Section 3. Title Commitment; Survey.

(a) Within fifteen (15) days after the Effective Date (hereinafter defined) of this Contract, Seller shall deliver or cause to be delivered to Purchaser the following:

(i) a commitment for title insurance (the "Title Commitment") issued by _____ (as selected by Seller in its sole discretion, the "Title Company;" provided, however, if the Property is of a residential nature designed principally for the occupancy of from one to four families, the Title Company will be selected and agreed upon by Purchaser and Seller), addressed to Purchaser, covering the Property and binding the Title Company to issue to Purchaser at Closing a Standard Form Owner Policy of Title Insurance (the "Title Policy") in the amount of the Purchase Price, with such Title Commitment setting forth the status of the title of the Property and showing all liens, claims, encumbrances, easements, rights-of-way, encroachments, reservations, restrictions and any other matters of record affecting the Property. The Title Commitment shall provide that the survey exception may be modified in the Title Policy, at Purchaser's sole cost and expense, to except "shortages in area" only;

(ii) a true and legible copy of all recorded documents referred to in the Title Commitment as exceptions to title to the Property; and

(iii) a currently dated and certified boundary survey of the Property (the "Survey") containing the information and meeting the requirements of the Survey Instructions attached hereto as Exhibit "B" and incorporated herein for all purposes. The legal description of the Property contained in the Survey, if (A) different from the description contained in Exhibit "A" hereto, and (B) approved by Seller, may, in Seller's sole discretion, be substituted for the legal description of the Property contained in Exhibit "A", and this Contract shall be deemed amended thereby, without the necessity of the parties hereto executing any further amendment to this Contract. The Survey and certification thereof may be a re-certification of a prior survey of the Property if such survey otherwise conforms to the requirements of Exhibit "B." Notwithstanding the foregoing, if Purchaser, for whatever reason, requires that the Survey qualify as an ALTA/ACSM Land Title Survey under the "Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys," effective February 23, 2011, then (I) any additional costs necessary to satisfy that requirement shall be borne solely by Purchaser, and (II) in no event shall the satisfaction of such requirement delay Closing or extend the time frames

set forth in this Section 3. Moreover, Purchaser shall have no right under Section 3.(b) hereof to object to any item shown as a result of imposing the ALTA/ACSM requirements on the Survey that would not have been shown thereon but for such requirements.

(b) Purchaser shall have ten (10) days from the receipt of the information referred to in Section 3.(a) hereof to examine the same and to specify to Seller in writing those items which Purchaser finds objectionable. If Purchaser does not deliver to Seller a written notice specifying such items within ten (10) days after the receipt by Purchaser of the information referred to in Section 3.(a) hereof, then all of the items reflected on the Title Commitment and the Survey shall be deemed to be permitted exceptions to title of and to the Property ("Permitted Exceptions"). Moreover, (i) all items referenced hereinbelow in Section 6.(b)(i)(E) as the standard printed exceptions to the Title Policy, and (ii) any and all title matter(s) waived or deemed waived by Purchaser pursuant to Section 3.(c)(ii) hereinbelow, shall be deemed Permitted Exceptions.

(c) If Purchaser objects to any item set forth on the Title Commitment or the Survey in the manner required by Section 3.(b) hereof, Seller shall use reasonable efforts to cure such matters before Closing, but shall have no obligation to expend any sums to do so. If at any time prior to Closing, as it may be extended by Seller in its sole discretion as provided in Section 6.(a) hereinbelow, Seller notifies Purchaser in writing that it can not or will not cure any such matters, Purchaser shall have the right, exercisable within five (5) days from receipt of such notice, to either (i) terminate this Contract by written notice thereof to Seller, in which event the Earnest Money shall be returned to Purchaser, and thereafter neither party hereto shall have any further rights or obligations under this Contract, or (ii) waive such matters and proceed to Closing, without any reduction in the Purchase Price. If Purchaser fails to timely deliver the written notice of termination provided for in Section 3.(c)(i) above, Purchaser shall be deemed to have waived all such matters in accordance with Section 3.(c)(ii) above for all purposes.

Section 4. Representations and Warranties. Purchaser and each of the persons executing this Contract on behalf of Purchaser hereby represent and warrant to Seller as follows:

(a) If Purchaser executes this Contract as a corporation, limited liability company, partnership, or joint venture, (i) Purchaser is a duly authorized and existing (A) corporation or limited liability company, as the case may be, in good standing, (B) partnership, or (C) joint venture; (ii) Purchaser is qualified to do business in _____; (iii) Purchaser has full right and authority to enter into this Contract and to consummate the transaction contemplated herein; (iv) each of the persons executing this Contract on behalf of Purchaser is authorized to do so; and (v) this Contract constitutes a valid and legally binding obligation of Purchaser, enforceable in accordance with its terms.

(b) If Purchaser executes this Contract as a corporation, limited liability company, partnership, or joint venture, Purchaser shall deliver to Seller, as soon as possible and in no event later than fifteen (15) days prior to Closing, documentation evidencing the matters set forth in

Section 4.(a) above, including, without limitation, corporate or partnership resolutions authorizing the transaction contemplated herein. Purchaser's failure to timely comply with the provisions of this Section 4.(b) shall be a default under this Contract and, as such, shall be governed by the provisions of Section 11.(a) hereinbelow.

(c) There are no material legal or administrative proceedings pending or, to the best of Purchaser's knowledge, threatened against or affecting Purchaser.

(d) In addition to the foregoing, Purchaser shall perform, execute, and deliver or cause to be performed, executed, and delivered at Closing or after Closing, any and all further acts, deeds, and assurances as Seller or the Title Company may reasonably require to consummate the transaction contemplated herein.

Section 5. Furnishing of Information; Feasibility Inspection Period; Condition to Closing.

(a) Subject to the provisions of this Section 5 and Section 14 hereinbelow, Seller hereby agrees to furnish the information described in Section 5.(c) hereinbelow to Purchaser as set forth therein, and to allow Purchaser and Purchaser's agents reasonable access to the Property during regular business hours during the Inspection Period (hereinafter defined) for the purpose of inspecting the Property; provided, however, that the costs and expenses of Purchaser's inspection shall be borne solely by Purchaser, and in the event the transaction contemplated by this Contract does not close for any reason, Purchaser shall (i) notwithstanding any other provision of this Contract to the contrary, remain solely liable for the payment of such costs and expenses, and (ii) deliver to Seller copies of all tests, reports, inspections, and analyses conducted by Purchaser with respect to the Property. All information furnished by Seller to Purchaser in accordance with this Section 5 or obtained by Purchaser in the course of its inspection shall be subject to Section 19 hereinbelow. Notwithstanding the foregoing, (A) Purchaser will give Seller reasonable notice of Purchaser's intention to enter upon the Property; (B) Purchaser must obtain written approval from Seller before Purchaser conducts any sampling, testing, or analysis of any media on or inspection of the Property, including, in Seller's discretion, the execution of a property access agreement for those purposes; and (C) Seller may require that a representative of Seller accompany Purchaser or its agents while they are on the Property. Any sampling, testing, or analysis of any media on or inspection of the Property performed or caused to be performed by Purchaser shall not unreasonably interfere with the use and occupancy of the Property by Seller or Seller's tenants, if any. Purchaser shall and does hereby release, indemnify, and hold Seller harmless, and Purchaser shall defend Seller (with counsel acceptable to Seller), from and against any liabilities, claims, demands, or actions incident to, resulting from, or in any way arising out of any such sampling, testing, analysis, or inspection, or any entry by or on behalf of Purchaser onto the Property. The obligations of Purchaser set forth in this Section 5.(a) shall survive Closing (or, notwithstanding any other provision of this Contract to the contrary, the earlier termination hereof) and not be merged therein.

(b) Purchaser shall have a period of _____ (____) days from the Effective Date, expiring at 5:00 P.M. according to the time zone applicable at the location of the Property, within which to examine the Property and to conduct its inspection and analysis thereof (the "Inspection Period"). If Purchaser determines, at any time prior to the expiration of the Inspection Period, that the Property is not fit for Purchaser's intended use, then Purchaser may terminate this Contract by written notice thereof to Seller within the Inspection Period, in which event the Earnest Money shall be returned to Purchaser, and thereafter neither party hereto shall have any further rights or obligations under this Contract. Purchaser's feasibility study may include a determination of, and Purchaser has been advised by Seller to perform all steps necessary to determine, whether any Hazardous Materials (hereinafter defined) or other substances known or suspected to pose a threat to health or the environment have been disposed of or otherwise released on or to the Property or whether any Environmental Matters (hereinafter defined) exist on or within any portion of the Property. If Purchaser does not indicate its disapproval of the Property by such written notice of termination given to Seller prior to the expiration of the Inspection Period, the conditions of this Section 5 shall be deemed satisfied. Moreover, Purchaser's failure to so indicate disapproval of the Property shall, in addition to the provisions of Section 14 hereinbelow, relieve Seller of any liability to Purchaser as a result of any Environmental Matters or Hazardous Materials (or both) subsequently discovered on or related to the Property, and at Closing Purchaser shall accept and assume all liability therefor, as between Seller and Purchaser, and Purchaser shall perform all remedial actions to clean up and remove such Environmental Matters or Hazardous Materials (or both), and Purchaser shall and does hereby indemnify and hold Seller harmless from and against any liabilities, claims, demands, or actions incident to, resulting from, or in any way arising out of the presence of any such Environmental Matters or Hazardous Materials (or both). The obligations of Purchaser under this Section 5.(b) shall survive Closing and not be merged therein.

(c) This Section 5.(c) only applies if there are Improvements situated on the Land. Seller agrees to furnish to Purchaser the following information as soon as practicable after the Effective Date, but in any event within ten (10) days after the Effective Date:

(i) copies of such operating statements as Seller possesses reflecting any gross rental income and operating expenses for the number of months (not to exceed twelve) preceding the date hereof during which Seller owned the Property;

(ii) copies of any Leases (hereinafter defined) or Service Contracts (hereinafter defined);
and

(iii) copies of such plans, drawings and specifications (including "as built" plans and drawings, if any) as Seller possesses with regard to the Improvements.

(d) Upon satisfaction of the conditions specified in Sections 3.(b) and 3.(c) herein, as well as this Section 5, without the termination of this Contract by Purchaser or Seller, Purchaser shall be

deemed obligated to close the transaction set forth in this Contract and Purchaser may not thereafter terminate this Contract hereunder.

Section 6. Closing.

(a) The closing of the sale of the Property by Seller to Purchaser ("Closing") shall occur on the first business day following the expiration of _____ () days from and after the expiration of the Inspection Period as defined in Section 5.(b) hereinabove (the "Closing Date"). The Closing shall occur at Seller's offices or, at Seller's option, at the offices of the Title Company or a closing attorney designated by Seller in its sole discretion (either of which, in that role, the "Settlement Agent"). Notwithstanding the foregoing, Seller shall have the right, in its sole discretion, to extend Closing for a period up to ninety (90) days from the Closing Date, as it may deem necessary for the resolution of title problems.

(b) At Closing, the following shall occur:

(i) Seller shall deliver or cause to be delivered to Purchaser the following:

(A) evidence satisfactory to the Title Company that the person or persons executing this Contract and the closing documents on behalf of Seller have full right, power and authority to do so;

(B) a special warranty deed substantially in the form of Exhibit "C" attached hereto and incorporated herein for all purposes (the "Deed"), executed and acknowledged by Seller and conveying the Property to Purchaser, subject only to the Permitted Exceptions and the other matters set forth herein;

(C) if applicable under Section 20 hereof, the Bill Of Sale;

(D) an assignment and assumption of any Leases and Service Contracts (the "Assignment and Assumption") assigning and transferring to Purchaser without warranty by or recourse against Seller, Seller's interest in and under any and all (1) tenant leases in force on the Closing Date covering the Property or any portion thereof (the "Leases"), together with all rentals and other payments arising therefrom on and after the Closing Date, and (2) contract agreements in force on the Closing Date with respect to the operation, maintenance and use of the Property (the "Service Contracts"), together with all rights and obligations arising therefrom on and after the Closing Date;

(E) the Title Policy, issued in the full amount of the Purchase Price (premium cost allocated as provided hereinbelow), insuring fee simple indefeasible title to the Property in Purchaser, subject only to the Permitted Exceptions, including, without

limitation, the standard printed exceptions contained in Schedule B thereof; provided however, (1) the standard exception as to restrictive covenants shall be deleted in its entirety (unless recorded restrictive covenants are specified as or deemed to be Permitted Exceptions, in which event the recording information thereof shall be listed under such exception), (2) the standard exception as to survey may be limited to "shortages in area" only, at Purchaser's option and sole expense, and (3) the standard exception as to rights of parties in possession may be limited to rights of tenants in possession as tenants under any presently effective unrecorded and recorded leases; provided further, however, delivery of the Title Policy may be delayed in order to allow the Title Company to insert recording information as to documents recited therein which must be recorded at Closing; and

(F) a non-foreign affidavit stating, under penalty of perjury, that Seller is not a "foreign person" within the meaning of §§ 1445(f)(3) and 7701(a)(30) of the Internal Revenue Code of 1986, as amended, and codified at 26 U.S.C. §§ 1445(f)(3) and 7701(a)(30).

(ii) Purchaser shall deliver or cause to be delivered to Seller the following funds and documents:

(A) wired funds or a cashier's or certified check made payable to the order of Seller, at Seller's option, in the amount of the Purchase Price, due credit being given for the Earnest Money and any security deposits actually in the possession of and retained by Seller in accordance with Section 6.(d) hereinbelow, together with such additional funds as may be necessary to cover Purchaser's share of the closing costs and prorations hereunder, and, if applicable, the amount set forth in Section 20 hereof for the personalty to be conveyed hereunder; and

(B) if applicable, the Assignment and Assumption, executed by Purchaser, whereby Purchaser assumes all of Seller's rights and obligations under any Leases and Service Contracts.

(iii) if there are any Leases covering all or any portion of the Property,

(A) Seller and Purchaser shall execute a tenant notification letter to each tenant of the Property individually (the "Tenant Notification Letter"), and Purchaser shall, within forty-eight (48) hours following the Closing, cause the Tenant Notification Letter to be (1) with respect to tenants from whom Seller does not actually have in its possession a security deposit, as set forth in the Rent Roll Affidavit (hereinafter defined) required by Section 6.(b)(iii)(B) hereinbelow, hand delivered to each tenant or affixed to each tenant's main or front door, and (2) with respect to tenants from whom Seller does

actually have in its possession a security deposit, as set forth in the Rent Roll Affidavit, deposited in the United States mail, addressed to each such tenant, postage prepaid and certified with return receipt requested. Each Tenant Notification Letter required by Section 6.(b)(iii)(A)(2) hereinabove shall acknowledge that Purchaser has received and is responsible for such tenant's security deposit and specify the exact dollar amount thereof.

Within forty-eight (48) hours of delivery of the Tenant Notification Letters, Purchaser shall provide Seller a copy of each such Tenant Notification Letter, together with an affidavit referencing same in form satisfactory to Seller, stating that Purchaser has delivered such letters to each tenant of the Property in accordance with this Contract and in compliance with the provisions of any applicable state statutes. The provisions of this Section 6.(b)(iii)(A) shall survive Closing and not be merged therein; and

(B) Seller shall execute a rent roll affidavit (the "Rent Roll Affidavit") setting forth that, to the best of its knowledge and belief, the rent roll attached thereto is a true, correct and complete listing of the Leases, including the premises covered thereby, the date to which rent has been paid, the name of the tenant, the rental and other charges payable thereunder, and the amount of each security deposit, if any, actually in the possession of Seller, from each tenant.

(iv) Seller and Purchaser shall cause to be delivered to the Title Company such other documents as may be reasonably necessary and appropriate to complete the Closing of the transaction contemplated herein.

(c) The provisions of this Section 6.(c) shall survive Closing and not be merged therein.

Proration and payment of property taxes and other proratable items shall be as follows:

(i) At Closing, all normal and customarily proratable items, including, without limitation, all ad valorem taxes and assessments assessed against the Property, prepaid rents and other expenses and fees payable under any Leases, prepaid and accrued but unpaid expenses incurred in connection with the operation or maintenance of the Property, including, without limitation, all utilities servicing the Property and the costs and expenses under any Service Contracts, and any dues and assessments of home or condominium owners' associations, shall be prorated between Purchaser and Seller as of the Closing Date, Seller being charged and credited for all of same up to such date and Purchaser being charged and credited for all of same on and after such date. If the tax assessments for the year of Closing have not been made, then the proration of all ad valorem taxes and assessments assessed against the Property shall be based upon the prior year's assessments. No prorations shall be made in relation to rents not collected as of the Closing Date, but Purchaser shall make a commercially reasonable attempt to collect the same for Seller's benefit after

Closing, but shall not be required to initiate legal proceedings in such attempt, and such collections, if any, shall be accounted for between Purchaser and Seller on the Reconciliation Date (hereinafter defined).

(ii) On the first business day immediately prior to the day which is sixty (60) days after the Closing Date, or such other date as may be agreed upon in writing by Seller and Purchaser in order to have in hand the tax assessments for the Property for the year of Closing or for any other reason (in any event, the "Reconciliation Date"), Seller hereby agrees to cause to be paid to Purchaser, or Purchaser hereby agrees to pay to Seller, as the case may be, a payment in an amount which reflects (i) net adjustments to the prorations made at Closing under Section 6.(c)(i), above, including, without limitation, (a) any and all rents delinquent and unpaid on the Closing Date and subsequently collected by Purchaser, and (b) any savings resulting from any tax abatements on the Property for the year of Closing resulting from a challenge brought by either party hereto and the costs or expenses incurred by the challenging party in that regard, and (ii) any costs and expenses incurred by Purchaser under Section 20.(b)(ii) hereof.

(iii) In the event the Property has been assessed for property tax purposes at such rates as would result in reassessment (i.e., "roll-back" taxes) based upon a change in land usage or ownership of the Property, Purchaser hereby agrees to pay all such taxes and Purchaser shall and does hereby indemnify and save Seller harmless from and against all claims and liability for such taxes.

(iv) Any security deposits actually in the possession of Seller, as determined by Seller in its sole and absolute discretion notwithstanding any provisions of the Lease(s), shall be retained by Seller and credited against the Purchase Price. Seller will have no responsibility for security deposits not held by Seller at Closing. Further, Seller will be credited at Closing with the amount of any and all deposits held on behalf of Seller by utility companies with respect to the Property.

(d) Upon completion of the Closing, Seller shall deliver to Purchaser possession of the Property free and clear of all tenancies of every kind and parties in possession, except for tenants entitled to possession under any Leases, and except for any Service Contracts. Purchaser shall and does hereby indemnify and hold Seller harmless, and Purchaser shall defend Seller (with counsel acceptable to Seller), from and against all claims, demands, and actions made or brought by any tenants under any Leases or by any vendors, suppliers, or tradespeople providing goods and services to the Property under any Service Contracts or otherwise. The obligations of Purchaser set forth in the immediately preceding sentence shall survive Closing and not be merged therein.

(e) Purchaser shall pay for the cost of (i) recording the Deed, (ii) any financing obtained by Purchaser in connection with its purchase of the Property pursuant hereto, (iii) any documentary stamp

taxes, deed taxes, transfer taxes, intangible taxes, mortgage taxes, or other similar taxes, fees, or assessments, (iv) services incurred by Purchaser in performing its feasibility study and related tests and investigations, (v) to the extent of one-half (1/2) of said cost, the Title Company's escrow fee, the Title Commitment, and the Title Policy, and (vi) causing the Survey to meet the requirements for an ALTA/ACSM land title survey, if applicable, as set forth in Subsection 3.(a)(iii)(I) hereinabove. Notwithstanding anything to the contrary contained herein, if the transaction contemplated herein does not close for any reason other than the default of Seller, then in addition to the other charges to be paid by Purchaser hereunder, the full cost of the Survey shall also be paid by Purchaser.

(f) Seller shall pay for the cost of (i) preparing the Deed, (ii) the Survey (subject to Subsection 6.(e)(vi) and the last sentence of Section 6.(e) hereinabove), and (iii) to the extent of one-half (1/2) of said cost, the Title Company's escrow fee, the Title Commitment, and the Title Policy.

(g) Each party shall pay its own attorney's fees.

Section 7. Notices. Any notice provided or required to be given under this Contract must be in writing and shall be served (and shall be deemed to have been served) by (a) depositing same in the United States mail, addressed to the party to be notified, postage prepaid and certified with return receipt requested; (b) delivering the same to such party or agent of such party, in person or by commercial courier; or (c) depositing the same into the custody of a nationally recognized overnight delivery service, addressed to the party to be notified. For purposes of notice, the addresses of the parties shall be as set forth in their respective signature blocks hereinbelow. From time to time either party may designate another address for all purposes of this Contract by giving the other party no less than ten (10) days advance notice of such change of address in accordance with the provisions hereof.

Section 8. Commissions. By a separate applicable listing agreement, Seller has agreed to pay a real estate brokerage commission (the "Commission") to the real estate agent specified therein ("Seller's Broker"). The Commission shall be payable at Closing only if and when the transaction contemplated by this Contract actually closes and then only as and when Seller receives the Purchase Price. No Commission shall be paid if the transaction contemplated by this Contract is not completely closed in accordance with the terms hereof. Seller's Broker may agree to divide commissions with any other licensed real estate broker or salesman, but notwithstanding any such agreement for division of the Commission, Seller shall be fully protected in paying the entire Commission to Seller's Broker and Seller shall have no obligation to any such other broker or salesman. Purchaser and Seller each represent and warrant to the other that, except as set forth above with respect to Seller's Broker, no real estate broker or agent has been authorized to act on such representing party's behalf. Purchaser acknowledges that, at the time of execution of this Contract, Seller's Broker advised Purchaser by this writing that Purchaser should have the abstract covering the Property examined by an attorney of Purchaser's own selection or that Purchaser should be furnished with or obtain a policy of title insurance.

Section 9. Assigns. This Contract shall inure to the benefit of and be binding on the parties hereto and their respective heirs, legal representatives, successors, and assigns. Notwithstanding the foregoing, Purchaser shall not have the right to assign its interest in this Contract without the prior written consent of Seller, which consent will not be unreasonably withheld, and any such assignment to which Seller has not so consented shall be null and void and of no force or effect. Purchaser hereby acknowledges and agrees that any request by Purchaser for Seller's consent to Purchaser's assignment of its interest in this Contract, **shall be in writing and shall be delivered to Seller, together with the documentation required by Section 4.(b) hereinabove with regard to the proposed assignee, no later than fifteen (15) days prior to Closing**. Purchaser hereby further acknowledges and agrees that any request for Seller's consent to Purchaser's assignment of its interest in this Contract (i) which does not strictly conform to the requirements contained in the immediately preceding sentence will be denied by Seller and any such withholding of such consent shall not be deemed to be unreasonable, and (ii) shall be documented by an assignment and assumption of this Contract in form and substance satisfactory to Seller in its sole discretion, including, without limitation, compliance by any such assignee with the requirements of Sections 18 and 19 hereof.

Section 10. Governing Law. **THE VALIDITY, CONSTRUCTION, ENFORCEMENT, INTERPRETATION, AND PERFORMANCE OF THIS CONTRACT SHALL BE GOVERNED BY THE LAWS OF THE UNITED STATES OF AMERICA, AND TO THE EXTENT THAT STATE LAW WOULD APPLY UNDER APPLICABLE FEDERAL LAW, THE STATE IN WHICH THE PROPERTY IS LOCATED.**

Section 11. Remedies.

(a) If Purchaser defaults in the performance of its obligations hereunder or refuses or fails to consummate the purchase of the Property in accordance with this Contract for any reason other than termination hereof in accordance with a right granted to Purchaser hereunder to do so, or breach by Seller of its obligations hereunder, then Seller, as its sole and exclusive remedy, shall have the right to terminate this Contract by giving Purchaser and the Title Company written notice thereof, in which event neither party hereto shall have any further rights or obligations under this Contract except that Seller shall be entitled to retain the Earnest Money as liquidated damages hereunder (Seller and Purchaser hereby acknowledging that the amount of damages resulting from a breach of this Contract by Purchaser would be difficult or impossible to accurately ascertain). Notwithstanding the foregoing, in the event of any other default by Purchaser under this Contract, Seller shall have any and all rights and remedies available at law or in equity by reason of such default.

(b) If Purchaser terminates this Contract pursuant to and in accordance with a right granted to Purchaser hereunder to do so, absent Seller default, then neither party hereto shall have any further rights or obligations under this Contract, and the Earnest Money shall be returned to Purchaser by Seller.

(c) If Seller fails to perform its obligations hereunder or refuses or fails to consummate the sale of the Property in accordance with this Contract for any reason other than termination hereof in accordance with a right granted to Seller hereunder to do so, or breach by Purchaser of its obligations hereunder, then Purchaser, as its sole and exclusive remedy, shall have the right to terminate this Contract by giving Seller and the Title Company written notice thereof, and thereafter neither party hereto shall have any further rights or obligations under this Contract except that the Earnest Money shall be returned to Purchaser by Seller, and, subject to (i) Purchaser's compliance with Sections 5.(a)(i) and (ii) hereinabove, and (ii) Purchaser's submission to Seller, within sixty (60) days of termination of this Contract pursuant to this Section 11.(c), of paid invoices (so marked) evidencing such compliance, Seller shall reimburse Purchaser for its reasonable out-of-pocket expenses incurred in connection with this transaction prior to such default up to the maximum amount of ONE THOUSAND AND NO/100 DOLLARS (\$1,000.00). In no event shall Seller be liable to Purchaser for any other actual, punitive, speculative, or consequential damages, nor shall Purchaser be entitled to bring a claim to enforce specific performance of this Contract. Moreover, if Seller is in default of Seller's obligations hereunder and Purchaser fails to exercise its right to terminate this Contract pursuant to this Section 11.(c) on or prior to the Closing Date (as same may have been extended by Seller pursuant to Section 6.(a) hereinabove), then this Contract shall expire by its own terms on the day following the Closing Date (as same may have been so extended), and thereafter neither party hereto shall have any further rights or obligations under this Contract except that Purchaser shall have the right to (A) the return of the Earnest Money from Seller, and, subject to Purchaser's timely compliance with this Section 11.(c) with regard thereto, (B) reimbursement by Seller of any documented out-of-pocket expenses incurred by Purchaser in this transaction, not to exceed \$1,000.00.

Section 12. Condemnation/Casualty.

(a) If all or a substantial portion of the Property is condemned or taken by eminent domain prior to Closing, Purchaser may, at its option, either (i) terminate this Contract by written notice thereof to Seller within ten (10) days after Seller notifies Purchaser of the condemnation or taking, and receive the immediate return of the Earnest Money, and thereafter neither party hereto shall have any further rights or obligations under this Contract; or (ii) proceed to close the transaction contemplated herein in accordance with the terms hereof, in which event Seller shall deliver to Purchaser at Closing any proceeds actually received by Seller attributable to the Property from such condemnation or eminent domain proceeding, or assign to Purchaser at Closing any right Seller may have to any condemnation or eminent domain award attributable to the Property, and there shall be no reduction in the Purchase Price. If Purchaser fails to timely deliver written notice of termination as described in Section 12.(a)(i) above, Purchaser shall be deemed to have elected to proceed in accordance with Section 12.(a)(ii) above. In no event shall any such condemnation or taking give rise to a claim by Purchaser against Seller for breach of this Contract.

(b) If all or a substantial portion of the Property is damaged or destroyed by fire or other casualty prior to Closing, Purchaser may, at its option, either (i) terminate this Contract by written

notice thereof to Seller within ten (10) days after Seller notifies Purchaser of the casualty and receive the immediate return of the Earnest Money, and thereafter neither party hereto shall have any further rights or obligations under this Contract; or (ii) proceed to close the transaction contemplated herein in accordance with the terms hereof, in which event Seller shall, at its option, (A) deliver to Purchaser at Closing any insurance proceeds actually received by Seller attributable to the Property from such casualty, or (B) allow Purchaser at Closing a credit against the Purchase Price in the amount of such casualty loss. If Purchaser fails to timely deliver written notice of termination as described in Section 12.(b)(i) above, Purchaser shall be deemed to have elected to proceed in accordance with Section 12.(b)(ii) above. In no event shall any such casualty give rise to a claim by Purchaser against Seller for breach of this Contract.

(c) For the purposes of Sections 12.(a) and, if applicable, 12.(b) hereinabove, a "substantial portion" of the Property shall be deemed to include any taking or casualty loss which damages the Property to the extent of, or in an amount equal to, twenty percent (20%) or more of the Purchase Price (and shall not include any taking or casualty loss of less than such percentage), or which materially interferes with direct access to and from the Property to any public street. Notwithstanding anything to the contrary contained in said Sections 12.(a) and 12.(b), in the event the proceeds payable with respect to the Property as a result of any taking or casualty exceed the amount of the Purchase Price, Seller shall have the right to terminate this Contract by delivering written notice thereof to Purchaser within thirty (30) days after Seller becomes aware of the proceeds payable with respect to any such taking or casualty, and in such event, neither party hereto shall have any further rights or obligations under this Contract except that the Earnest Money shall be returned to Purchaser by Seller, and, subject to (i) Purchaser's compliance with Sections 5.(a)(i) and (ii) hereinabove, and (ii) Purchaser's submission to Seller, within sixty (60) days of termination of this Contract pursuant to this Section 12.(c), of paid invoices (so marked) evidencing such compliance, Seller shall reimburse Purchaser for its reasonable out-of-pocket expenses incurred in connection with this transaction prior to such termination up to the maximum amount of ONE THOUSAND AND NO/100 DOLLARS (\$1,000.00). If any taking or casualty loss is less than a substantial portion of the Property, Purchaser shall be obligated to proceed with Closing, in which event Seller shall (A) with regard to any such taking, deliver to Purchaser at Closing any proceeds actually received by Seller attributable to the Property from such taking, or assign to Purchaser at Closing any right Seller may have to such proceeds, or (B) with regard to any such casualty loss, at its option, (1) deliver to Purchaser at Closing any proceeds actually received by Seller attributable to the Property from such casualty loss, or (2) allow Purchaser at Closing a credit against the Purchase Price in the amount of such casualty loss. In no event shall any such taking or casualty loss give rise to a claim by Purchaser against Seller for breach of this Contract.

(d) If the Property is damaged prior to Closing and such damage creates an emergency requiring immediate repair (prior to Purchaser's election under Section 12.(b) hereinabove) in order to prevent further damage to the Property, Seller may cause such repair(s) to be made in a timely manner and any casualty proceeds paid as a result of such damage shall be used in paying the cost of such repair. Risk

of loss or damage to the Property, or any part thereof, by fire or other casualty up until Closing shall be borne by Seller and thereafter by Purchaser.

(e) Sections 12.(b) and (d) hereinabove only apply if there are Improvements situated on the Land.

Section 13. Entire Agreement; Interpretation; Severability; Attorney's Fees; Counterpart; Memorandum of Agreement; Time is of the Essence.

(a) This Contract is the entire agreement between Seller and Purchaser concerning the sale of the Property and supersedes all prior agreements and understandings, if any, with regard thereto, and no modification hereof or subsequent agreement relative to the subject matter hereof shall be binding on either party unless reduced to writing and signed by the party to be bound.

(b) The parties acknowledge that each party and its counsel have reviewed and revised this Contract, and the parties hereby agree that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Contract or any amendments or exhibits hereto.

(c) In case any one or more of the provisions contained in this Contract 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 provisions hereof, and this Contract shall be construed as if such invalid, illegal, or unenforceable provisions had never been contained herein.

(d) Should either party employ an attorney or attorneys to enforce any of the provisions hereof, or to recover damages for the breach of this Contract, the prevailing party in any final judgment shall be entitled to recover from the other party (or parties) all reasonable costs, charges, and expenses, including, without limitation, attorney's fees expended or incurred in connection therewith; provided, however, that Seller's liability, if any, for court costs and attorney's fees, shall be determined in accordance with the Equal Access to Justice Act, codified at 28 U.S.C. § 2412 (2006), to the extent applicable, as well as any other applicable federal law.

(e) This Contract may be executed in any number of identical counterparts. If so executed, each of such counterparts is to be deemed an original for all purposes, and all such counterparts shall collectively constitute one agreement.

(f) In no event shall this Contract or any memorandum hereof be recorded in the public records of the place in which the Property is situated, and any such recordation or attempted recordation shall constitute a breach of this Contract by the party responsible for such recordation or attempted recordation.

(g) Time is of the essence in the performance of each party's obligations hereunder.

Section 14. Disclaimer; Waiver/Release of Claims.

(a) For the purposes of this Contract, the following terms shall have the definitions indicated:

(i) "Environmental Law" shall mean any federal, state, or local laws, ordinances, permits, or regulations, or any common law, regarding health, safety, radioactive materials, or the environment, including, but not limited to, the following federal statutes: Clean Air Act (42 U.S.C. § 7401 et seq.) ("CAA"), Clean Water Act (42 U.S.C. § 1251 et seq.) ("CWA"), Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.) ("RCRA"), Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. § 9601 et seq.) ("CERCLA"), Emergency Planning and Community Right-to-Know Act (42 U.S.C. § 11001 et seq.) ("EPCRA"), Safe Drinking Water Act (42 U.S.C. § 300f et seq.) ("SDWA"), Toxic Substances Control Act (15 U.S.C. § 2601 et seq.) ("TSCA"), Endangered Species Act of 1973 (16 U.S.C. § 1531 et seq.) ("ESA"), Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. § 136 et seq.) ("FIFRA"), and the Occupational Safety and Health Act (29 U.S.C. § 651 et seq.) ("OSHA"), each as amended, and any regulations promulgated thereunder, guidances and directives issued with respect thereto, or policies adopted by authority thereunder.

(ii) "Release" shall mean the discharge, disposal, deposit, injection, dumping, spilling, leaking, leaching, placing, presence, pumping, pouring, emitting, emptying, escaping, or other release of any Hazardous Material.

(iii) "Hazardous Material" shall mean: (A) any radioactive materials; (B) any substance or material the transportation, storage, treatment, handling, use, removal, or Release of which is subject to any Environmental Law; or (C) any substance or material for which standards of conduct are imposed under any Environmental Law. Without limiting the generality of the foregoing, "Hazardous Materials" shall include: asbestos and asbestos-containing materials (whether or not friable); urea-formaldehyde in any of its forms; polychlorinated biphenyls; oil; used oil; petroleum products and their by-products; lead based paint; radon; and any substances defined as "hazardous waste", "hazardous substances", "pollutants or contaminants", "toxic substances", "hazardous chemical", "hazardous air pollutants", or "toxic chemical" under the CAA, CWA, RCRA, CERCLA, EPCRA, SDWA, TSCA, or OSHA, or any other Environmental Law.

(iv) "Environmental Matter" shall mean any of the following: (A) the Release of any Hazardous Material on or at the Property or any other property; (B) the migration of any Hazardous Material onto or from the Property; (C) the environmental, health, or safety aspects of the transportation, storage, treatment, handling, use, or Release, whether any of the foregoing occurs on or off the Property, of Hazardous Materials in connection with the operations or past

operations of the Property; (D) the violation, or alleged violation, of any Environmental Law, order, permit, or license of or from any governmental authority, agency, or court relating to environmental, health, or safety matters; (E) the presence of any underground storage tanks ("UST(s)") within the confines of the Property; (F) the presence of wetlands within the confines of the Property; (G) the presence of any endangered species on, in, or around the Property; or (H) the characterization of the Property as historical in nature in any way.

(v) "Released Parties" shall mean, collectively, all of the following (to the extent applicable): (A) the failed financial institution(s) through which Seller or its predecessor acquired its interest in the Property (the "Failed Financial Institution"); (B) the FDIC in any and all of its various capacities; and (C) Seller and all of the directors, officers, employees, agents, contractors, representatives, successors, and assigns of Seller and of each of the parties referenced above in this Section 14.(a)(v).

(b) Purchaser acknowledges that Seller has acquired the Property due solely to the failure of the Failed Financial Institution, and consequently Seller has little or no knowledge of the condition of the Property and the surrounding areas. **ACCORDINGLY, PURCHASER ACKNOWLEDGES AND AGREES THAT PURCHASER IS PURCHASING THE PROPERTY "AS-IS", "WHERE-IS", AND "WITH ALL FAULTS" AS OF THE DATE HEREOF AND AS OF THE CLOSING DATE, AND PURCHASER FURTHER ACKNOWLEDGES AND AGREES THAT SELLER HEREBY EXPRESSLY DISCLAIMS ANY AND ALL IMPLIED WARRANTIES CONCERNING THE CONDITION OF THE PROPERTY AND ANY PORTIONS THEREOF, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF HABITABILITY, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. PURCHASER FURTHER ACKNOWLEDGES AND AGREES THAT IT WILL INSPECT THE PROPERTY AND PURCHASER WILL RELY SOLELY ON ITS OWN INVESTIGATION OF THE PROPERTY IN ITS ACQUISITION THEREOF. SELLER SHALL HAVE NO OBLIGATION HEREUNDER TO ALTER, REPAIR, OR IMPROVE THE PROPERTY.**

(c) Purchaser acknowledges and agrees that Purchaser will not rely upon any (i) representations or warranties (oral or written) made by or purportedly on behalf of Seller unless expressly set forth in this Contract, or (ii) documents or other information (oral or written) supplied by or purportedly on behalf of Seller. **PURCHASER FURTHER ACKNOWLEDGES AND AGREES THAT ANY DOCUMENTS OR INFORMATION PROVIDED TO PURCHASER BY SELLER OR ON SELLER'S BEHALF HAVE BEEN OBTAINED FROM A VARIETY OF SOURCES, HAVE NOT BEEN INDEPENDENTLY INVESTIGATED OR VERIFIED BY SELLER, AND ARE NOT TO BE RELIED UPON BY PURCHASER IN ENTERING INTO THIS CONTRACT OR PURCHASING THE PROPERTY. SELLER MAKES NO EXPRESS REPRESENTATIONS OR WARRANTIES, AND DISCLAIMS ANY AND ALL IMPLIED WARRANTIES, CONCERNING THE TRUTH, ACCURACY, AND COMPLETENESS OF ANY DOCUMENTS OR INFORMATION SUPPLIED TO PURCHASER BY SELLER OR ANYONE ACTING OR PURPORTING TO ACT ON SELLER'S BEHALF.**

(d) EXCEPT TO THE EXTENT EXPRESSLY PROVIDED IN THIS CONTRACT, SELLER MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, CONCERNING ANY MATTERS INVOLVING THE PROPERTY. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, SELLER HEREBY AFFIRMATIVELY DISCLAIMS ANY EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES CONCERNING ANY OF THE FOLLOWING MATTERS:

(i) EXCEPT AS EXPRESSLY SET FORTH IN THE DEED TO BE DELIVERED BY SELLER TO PURCHASER AT CLOSING, ANY MATTERS AFFECTING TITLE TO THE PROPERTY;

(ii) THE COMPLIANCE OF THE PROPERTY OR ANY PORTION THEREOF WITH ANY AND ALL APPLICABLE FEDERAL, STATE, AND LOCAL LAWS, ORDINANCES, PERMITS, RULES, REGULATIONS, OR REQUIREMENTS, INCLUDING, BUT NOT LIMITED TO, ENVIRONMENTAL LAWS;

(iii) THE SUITABILITY OR APPROPRIATENESS OF THE PROPERTY OR ANY PORTION THEREOF FOR FUTURE DEVELOPMENT OR RENOVATION OR FOR THE CONDUCT OF ANY USES OR ACTIVITIES THAT PURCHASER MAY ELECT TO CONDUCT THEREON;

(iv) THE CONDITION OF THE PROPERTY OR ANY PORTION THEREOF;

(v) THE EXISTENCE, QUALITY, NATURE, ADEQUACY, OR PHYSICAL CONDITION OF ANY UTILITIES SERVING THE PROPERTY; OR

(vi) THE PRESENCE OR ABSENCE OF ANY ENVIRONMENTAL MATTERS.

(e) PURCHASER, FOR ITSELF AND ITS HEIRS, SUCCESSORS, AND ASSIGNS AND ANYONE ELSE CLAIMING BY, THROUGH, OR UNDER PURCHASER, HEREBY EXPRESSLY (i) WAIVES THE CLAIMS AND CAUSES OF ACTION DESCRIBED BELOW IN THIS SECTION 14.(e) (WHETHER OR NOT SUCH CLAIMS OR CAUSES OF ACTION ARE KNOWN OR DISCOVERABLE AS OF THE DATE HEREOF), AND (ii) RELEASES SELLER AND ALL RELEASED PARTIES, JOINTLY AND SEVERALLY, FROM ANY AND ALL LIABILITY BASED IN WHOLE OR IN PART UPON ANY SUCH CLAIMS OR CAUSES OF ACTION:

(A) CLAIMS OR CAUSES OF ACTION BASED UPON ANY OF THE MATTERS SET FORTH IN SECTIONS 14.(b), (c), and (d) HEREINABOVE; AND

(B) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS CONTRACT, CLAIMS OR CAUSES OF ACTION BASED UPON ANY ACTUAL OR

ALLEGED FAILURE BY SELLER TO SATISFY A DUTY TO DISCLOSE INFORMATION TO PURCHASER CONCERNING THE PROPERTY, INCLUDING, BUT NOT LIMITED TO, INFORMATION CONCERNING THE PRESENCE OF ANY PATENT OR LATENT DEFECTS, DEFICIENCIES IN OR AFFECTING THE PROPERTY, OR THE PRESENCE OF ANY PATENT OR LATENT ENVIRONMENTAL MATTERS.

(f) Notwithstanding the intent of the parties hereto that the waiver and release provisions contained in Section 14.(e) hereinabove bar all claims and causes of action by Purchaser and Purchaser's heirs, successors, and assigns and anyone else claiming by, through, or under Purchaser, should a court of competent jurisdiction deem otherwise, Purchaser hereby agrees that the presence of the waiver and release provisions in said Section 14.(e) should serve as the overwhelming, primary factor in any equitable apportionment of response costs under applicable federal, state, or local laws, ordinances, or regulations.

(g) PURCHASER SHALL AND DOES HEREBY INDEMNIFY AND HOLD Seller and all Released Parties HARMLESS, jointly and severally, from and against all claims, demands, liabilities, damages, losses, and expenses (including cleanup or remediation costs, deficiencies, interest, fines, penalties, court costs, and consultants' and attorneys' fees and disbursements) that Seller or any Released Party suffers, incurs, or may potentially suffer or incur, as a result of any claims or causes of action made or brought by any party other than Purchaser (including, without limitation, any governmental or quasi-governmental agency, instrumentality, or authority, or one or more private parties) on the basis of any of the matters set forth in Sections 14.(b), (c), (d), and (e) hereinabove.

(h) Purchaser acknowledges and agrees that the waiver and release provisions contained in Section 14.(e) hereinabove and the indemnification and hold harmless provisions contained in Section 14.(g) hereinabove were each an essential component of the consideration for the sale of the Property hereunder.

(i) Purchaser acknowledges and agrees that Purchaser's sole recourse for claims or causes of action of the nature described in Section 14.(e) hereinabove shall be to parties other than Seller and all Released Parties and that economic recovery may not be possible against some or all of such parties.

(j) EACH OF THE PROVISIONS OF THIS SECTION 14 SHALL SURVIVE CLOSING AND THE EXECUTION AND DELIVERY OF THE DEED BY SELLER AND SHALL NOT BE MERGED THEREIN.

Section 15. Offer Only; Effective Date. This Contract, until executed by each of the parties hereto, is only an offer of the party first executing the same. Subject to the provisions of Section 16 hereinbelow, the date of execution of this Contract by the latter of Purchaser or Seller shall be the "Effective Date" hereof for all purposes. All references herein to the date of this Contract shall mean the Effective Date.

Section 16. Conditioned Upon Committee Approval. This Contract, and Seller's obligations hereunder, are expressly subject to and conditioned upon the approval hereof by Seller and its appropriate review committee (the "Committee"). In the event that, prior to Closing, the Committee has not approved this Contract, considering guidelines used to facilitate the sale of property owned by Seller, as amended from time to time, this Contract shall be null and void and the Earnest Money shall be returned to Purchaser by Seller, the Option Fee shall be retained by Seller, and thereafter neither Purchaser nor Seller shall have any further rights or obligations under this Contract.

Section 17. Prospective Lease(s); Reimbursement Period. The provisions of this Section 17 shall apply only if the Property is improved with a commercial structure or structures such as a shopping center or office building.

(a) Purchaser and Seller hereby acknowledge and agree that it is beneficial to the Property and to the parties hereto for Seller to enter into leases covering the Property or any portion thereof ("Prospective Lease") during the period from and after the Effective Date and prior to Closing (the "Reimbursement Period").

(b) During the Reimbursement Period, if Seller submits (in accordance with the notice provisions of Section 7 hereinabove) a Prospective Lease to Purchaser, Purchaser shall have five (5) business days from Purchaser's receipt thereof to notify Seller in writing (and in accordance with said Section 7) of Purchaser's decision not to become obligated for the costs of such Prospective Lease as described in Section 17.(c) hereinbelow. Purchaser's failure to so notify Seller shall be deemed to be the decision of Purchaser to obligate itself for the costs of such Prospective Lease as set forth in Section 17.(c) hereinbelow.

(c) Unless Purchaser notifies Seller in accordance with Section 17.(b) hereinabove of Purchaser's decision not to become obligated for the costs of a Prospective Lease (submitted to Purchaser in accordance with said Section 17.(b)), Purchaser shall reimburse Seller in cash at Closing for all costs expended or incurred by Seller under that Prospective Lease during the Reimbursement Period, such costs to include, without implied limitation, real estate commissions or fees, tenant finish out costs, and moving or relocation expenses. To the extent that Seller has not actually expended such sums during the Reimbursement Period, Purchaser shall expressly assume the payment thereof at Closing in accordance with Section 6.(b)(ii)(B) hereinabove.

(d) Notwithstanding the foregoing provisions of this Section 17, and prior to the expiration of the Inspection Period, Seller may enter into such Prospective Lease(s) as it may elect in its sole discretion, (i) without submitting such Prospective Lease(s) to Purchaser as set forth in Section 17.(b) hereinabove, or (ii) notwithstanding Purchaser's decision not to be obligated for the costs of such Prospective Lease(s) as set forth in said Section 17(b). In either of such events set forth in this Section 17.(d), Purchaser shall not be obligated for the costs of such Prospective Lease(s).

(e) This Section 17 shall not apply to multifamily residential or mini-warehouse properties which shall continue to be leased by Seller during the term of this Contract in the ordinary course of Seller's business.

Section 18. Prohibited Purchaser. Purchaser hereby acknowledges that certain persons are prohibited from purchasing assets from Seller and that under certain circumstances Seller will not sell assets to certain persons. Accordingly, prior to or contemporaneously with the execution of this Contract, Purchaser (if an individual, or a principal of Purchaser) has completed, executed, and delivered to Seller a Purchaser Eligibility Certification (the "PEC") in the form attached hereto as Exhibit "D." Purchaser hereby represents and warrants to Seller that the PEC is true and correct, and Purchaser hereby further acknowledges that Seller is relying on the truth and accuracy of the PEC. Any incorrect information on the PEC shall be a default by Purchaser under this Contract. Accordingly, if Seller determines prior to Closing that any portion of the PEC is incorrect, Seller may terminate this Contract and retain the Earnest Money as provided for in Section 11.(a) hereof, and may pursue any other sanctions provided by law.

Section 19. Confidentiality. Prior to or contemporaneously with the execution of this Contract, Purchaser has completed, executed, and delivered to Seller a Confidentiality Agreement (herein so called) in the form attached hereto as Exhibit "E" and incorporated herein for all purposes. Any breach of the Confidentiality Agreement by Purchaser shall be a default under this Contract, in which event Seller may terminate this Contract and retain the Earnest Money as provided for in Section 11.(a) hereof, and may pursue any other sanctions provided by law.

Section 20. Personal Property; Personal Identifying Information. **[check one]** No personal property is included in the transaction contemplated by this Contract. An inventory of the personal property included in the transaction contemplated by this Contract is set forth on Exhibit "F" attached hereto and made a part hereof for all purposes. Any personalty to be conveyed to Purchaser under this Section 20 shall be conveyed by a quitclaim bill of sale (the "Bill of Sale").

(a) Regardless of whether or not any personal property is included in the transaction contemplated by this Contract, as indicated hereinabove, this Section 20 shall survive Closing and not be merged therein. For the purposes of this Section 20, "personal identifying information" or "PII" shall mean any piece of information which can potentially be used to uniquely identify, contact, or locate a particular person.

(b) Notwithstanding anything to the contrary in this Contract or in any exhibit hereto, and to the extent that any furniture, fixtures, and equipment, including, without limitation, printers, fax machines, scanners, copiers, computer systems, servers, hardware and software, tapes, CD's, disks, thumb drives, portable drives, hard disk drives, or any other portable electronic storage media/devices, and the electronic data stored therein or thereon, and all hard data, records, documents, and information, including, without limitation and with regard to each and all of the

foregoing, personal identifying information or PII, remain in, on, or about the Property at Closing, and whether or not apparently described in whole or in part on Exhibit "F" hereto, Purchaser hereby acknowledges and agrees that (i) any and all such hardware, software, tapes, CD's, disks, thumb drives, portable drives, hard disk drives, and any other portable electronic storage media/devices and the electronic data stored therein or thereon and any hard data, records, documents, or information, including, without limitation and with regard to each and all of the foregoing, personal identifying information or PII (all of the foregoing described in this Section 20.(b)(i) are hereinafter collectively referred to as the "Excluded Personalty"), are hereby expressly and unequivocally excluded from the transaction contemplated by this Contract, and (ii) within ten (10) business days from and after Closing, Purchaser, at Seller's sole cost and expense, shall effect the removal of the Excluded Personalty from the Property and delivery of same to Seller.

(c) If any software or systems necessary to or for the operation of any building located upon the Property, reside in or on any Excluded Personalty, then within ten (10) business days from and after Closing, Purchaser shall transfer that data to replacement portable electronic storage media/devices at Purchaser's sole cost and expense, and immediately thereafter deliver all such Excluded Personalty to Seller.

(d) If at any time Purchaser discovers the presence of any Excluded Personalty which Seller or Purchaser has previously failed to remove from the Property, Purchaser shall promptly (i) notify Seller in writing of the existence of such Personal Property, and (ii) at Seller's sole cost and expense, effect the removal of the discovered Excluded Personalty from the Property and delivery of same to Seller.

(e) Purchaser hereby acknowledges and agrees that any and all personal identifying information or PII that remains in, on, or about the Property at Closing and thereafter is (i) the property of Seller, and Purchaser hereby agrees that it will not attempt to access or read or determine the content of any such personal identifying information or PII, and (ii) confidential and governed by the Confidentiality Agreement described in Section 19 hereof. Notwithstanding anything to the contrary in the Confidentiality Agreement, the terms thereof shall not terminate and shall bind Purchaser as to any and all personal identifying information or PII that remains in, on, or about the Property at Closing or thereafter.

Section 21. State Specific Attachments. The following attachments, if any, are attached hereto and incorporated herein for all purposes in order to conform this Contract to the laws of the state in which the Property is located:

ATTACHMENT "1:" _____;

ATTACHMENT "2:" _____;

ATTACHMENT "3:" _____;

ATTACHMENT "4:" _____.

Section 22. Disclosures Regarding the Property.

ATTACHMENT "___:" Lead-Based Paint Disclosure. Required if improvements to the Property include a residential dwelling built prior to 1978.

ATTACHMENT "___:" Other Environmental Matters. **As limited and qualified by, and subject to every other provision of this Contract, Seller has become aware that there may be present within or upon the Property certain Environmental Matters as set forth on Attachment "___" attached hereto and incorporated herein for all purposes. Pursuant thereto, Purchaser hereby acknowledges that, notwithstanding anything in this Contract to the contrary, Seller hereby retains for itself, to the exclusion of Purchaser, any and all rights Seller may have to recover any and all costs and expenses Seller has incurred or experienced (including, without limitation, diminution of the value of the Property) with regard to any Environmental Matters or Hazardous Materials associated with the Property, including, without limitation, the right to file suit to recover any said costs and expenses. The rights of Seller hereby retained shall survive Closing and not be merged therein. Accordingly, Purchaser hereby agrees to provide Seller or its designee(s) with reasonable access to the Property and to records pertaining to the Property, as deemed necessary by Seller to prosecute the rights retained by Seller in this Section 22, upon written request delivered to Purchaser not less than ten (10) business days prior to any such access.**

[Signature pages follow.]

IN WITNESS WHEREOF, the parties have executed this Real Estate Purchase And Sale Contract to be effective as of the Effective Date.

PURCHASER [check applicable box]:

_____ **[if an individual, sign on this first line, print name on second]**

Name: _____

_____ **[print name of legal entity, including type of entity and state in which it was formed, e.g., Whiteacre, LLC, a New Jersey limited liability company]**

By: _____
[entity's representative signs here]

Print Name: _____

Title: _____

Date: _____

Tax ID Number: _____

Purchaser's complete mailing address **[whether individual or legal entity]:**

_____ **[use street address only; a P.O. Box is NOT acceptable]**

Phone number: _____

Fax number: _____

[Seller's signature page follows.]

SELLER:

Federal Deposit Insurance Corporation,
in the capacity stated above
1601 Bryan Street
Dallas, Texas 75201

Note: for purposes of notice under Section 7
hereof, if Seller utilized a third party marketing
contractor in this transaction, a copy of all notices
to Seller must be sent simultaneously to:

By: _____

Name: _____

Title: Attorney in Fact _____

Date: _____

Phone number: _____

Fax number: _____

SAMPLE

EXHIBIT "A"

[Legal Description of the Property]

SAMPLE

EXHIBIT "B"

SURVEY INSTRUCTIONS

Seller shall furnish to Purchaser within the time set forth in this Contract two (2) copies of a currently dated boundary survey of the Property prepared by a Registered Professional Land Surveyor (the "Survey"). The Survey shall (i) show the boundary lines, dimensions, and area of the Land; (ii) locate all easements, alleys, streets, roads, rights-of-way, and other matters of record affecting the Land (with instrument, book and page number indicated); (iii) show all existing improvements and monuments thereon or thereto; (iv) set forth a metes and bounds description of the Land; and (v) set forth the scale, the north direction, the beginning point, distance to the nearest intersecting street and point of reference from which the Land is measured.

The Survey shall contain a certification, signed by the surveyor, in substantially the following form:

The undersigned hereby certifies to (1) _____, (2) _____, and (3) _____, that this Survey was made on the ground as per the field notes on this Survey, and (i) correctly shows the boundary lines, dimensions, and area of the land indicated hereon, (ii) correctly shows the location of all existing improvements, monuments, and other visible items on such land, and (iii) correctly shows the location and dimensions of all easements, alleys, streets, roads, rights-of-way, and other matters of record, of which the undersigned has been advised, affecting such land according to the legal description in such easements and other matters (with instrument, book and page number indicated); except as shown, there are no visible easements, rights-of-way, party walls, or conflicts, and there are no visible encroachments on or upon adjoining premises, streets, or alleys by any of such improvements or monuments, and there are no visible encroachments on or upon such land by buildings, structures, or other improvements situated on adjoining premises; and no part of the subject property lies within the 100-year flood plain or flood prone area or a floodway of any body of water and none of the above-described property lies within a "flood prone area" as defined by the U. S. Department of Housing and Urban Development pursuant to the Flood Disaster Protection Act of 1973, except as shown on this Survey.

Date: _____, 20__

(Name of Surveyor or Surveying Firm)

(Signature of Individual Surveyor or
Surveyor on behalf of Surveying Firm)

Registered Professional Land Surveyor

No. _____

(With Seal affixed to the Survey)

remaining assets of such estate, including, without limitation, all of its right, title, and interest in and to the Property, were transferred to the FDIC in its corporate capacity ("FDIC-Corporate").]

NOW, THEREFORE, the Receiver [**or, if applicable:** FDIC-Corporate] (hereinafter, "Grantor"), whose address is 1601 Bryan Street, Dallas, Texas 75201, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration to said Grantor paid by Grantee named herein, the receipt of which is hereby acknowledged, has GRANTED, SOLD and CONVEYED and by these presents does GRANT, SELL and CONVEY unto _____ [if a legal entity, include type and state in which formed] ("Grantee"), whose mailing address is _____, that certain real property situated in _____ County, _____, described on Exhibit "A" attached hereto and made a part hereof for all purposes, together with any and all improvements thereto and all and singular the rights and appurtenances pertaining thereto, including, but not limited to, any right, title and interest of Grantor in and to adjacent streets, alleys or rights-of-way (collectively, the "Property"), **subject** however to all standby fees, real estate taxes, and assessments on or against the Property for the current year and subsequent years and subsequent taxes and assessments for prior years becoming due by reason of a change in usage or ownership, or both, of the Property, as well as zoning, building, and other laws, regulations, and ordinances of municipal and other governmental authorities, if any, affecting the Property, and all matters set forth on Exhibit "B" attached hereto and made a part hereof for all purposes (all of the foregoing being collectively referred to as the "Permitted Exceptions"). Grantee, by its execution and acceptance of delivery of this Special Warranty Deed, assumes and agrees to perform any and all obligations of Grantor or the Institution under the Permitted Exceptions.

FURTHER, GRANTEE, BY ITS EXECUTION AND ACCEPTANCE OF DELIVERY OF THIS SPECIAL WARRANTY DEED, ACKNOWLEDGES AND AGREES THAT (i) EXCEPT FOR THE SPECIAL (OR LIMITED) WARRANTY OF TITLE CONTAINED HEREIN, GRANTOR HAS NOT MADE, DOES NOT MAKE, AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS, OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT, OR FUTURE, OF, AS TO, CONCERNING, OR WITH RESPECT TO (A) THE VALUE, NATURE, QUALITY, OR CONDITION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE WATER, SOIL, AND GEOLOGY, (B) ANY INCOME TO BE DERIVED FROM THE PROPERTY, (C) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH GRANTEE MAY CONDUCT OR HOPE TO CONDUCT THEREON, (D) THE COMPLIANCE OF OR BY THE PROPERTY OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES, OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY, (E) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY OR ANY PART THEREOF, (F) THE MANNER OR QUALITY OF THE CONSTRUCTION OR MATERIALS, IF ANY, INCORPORATED INTO THE PROPERTY, (G) THE MANNER, QUALITY, STATE OF REPAIR, OR LACK OF REPAIR OF THE PROPERTY OR ANY PART THEREOF OR ANY IMPROVEMENTS THERETO, (H) THE EXISTENCE, QUALITY, NATURE, ADEQUACY, OR PHYSICAL CONDITION OF ANY UTILITIES SERVING THE PROPERTY, OR (I) ANY OTHER MATTER WITH RESPECT TO THE

PROPERTY, AND SPECIFICALLY, THAT GRANTOR HAS NOT MADE, DOES NOT MAKE, AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS REGARDING COMPLIANCE WITH ANY ENVIRONMENTAL PROTECTION, POLLUTION, OR LAND USE LAWS, RULES, REGULATIONS, ORDERS, OR REQUIREMENTS, INCLUDING, WITHOUT LIMITATION, THE DISPOSAL OR EXISTENCE, IN OR ON THE PROPERTY OR ANY PART THEREOF, OF ANY HAZARDOUS MATERIALS; (ii) GRANTEE HAS FULLY INSPECTED THE PROPERTY AND THAT THE CONVEYANCE HEREUNDER OF THE PROPERTY IS "AS IS" AND "WITH ALL FAULTS," AND GRANTOR HAS NO OBLIGATION TO ALTER, REPAIR, OR IMPROVE THE PROPERTY OR ANY PART THEREOF OR ANY IMPROVEMENTS THERETO; AND (iii) NO WARRANTY HAS ARISEN THROUGH TRADE, CUSTOM, OR COURSE OF DEALING WITH GRANTOR, AND ALL STATUTORY, COMMON LAW, AND CUSTOMARY COVENANTS AND WARRANTIES, IF ANY, OF WHATEVER KIND, CHARACTER, NATURE, PURPOSE, OR EFFECT, WHETHER EXPRESS OR IMPLIED OR ARISING BY OPERATION OF LAW, ARE HEREBY EXPRESSLY, UNCONDITIONALLY, AND IRREVOCABLY WAIVED, DISCLAIMED, AND EXCLUDED FROM THIS SPECIAL WARRANTY DEED, NOTWITHSTANDING ANY CUSTOM OR PRACTICE TO THE CONTRARY, OR ANY STATUTORY, COMMON LAW, DECISIONAL, HISTORICAL, OR CUSTOMARY MEANING, IMPLICATION, SIGNIFICANCE, EFFECT, OR USE OF CONTRARY IMPORT OF ANY WORD, TERM, PHRASE OR PROVISION HEREIN.

Further, by its acceptance of delivery of this Special Warranty Deed, Grantee or anyone claiming by, through, or under Grantee, hereby fully releases Grantor, the Institution, and the FDIC in any and all of its various other capacities, and their respective employees, officers, directors, representatives, and agents from any and all claims, costs, losses, liabilities, damages, expenses, demands, actions, or causes of action that it or they may now have or hereafter acquire, whether direct or indirect, known or unknown, suspected or unsuspected, liquidated or contingent, arising from or related to the Property in any manner whatsoever. This covenant releasing Grantor, the Institution, and the FDIC in any and all of its various other capacities shall be a covenant running with the Property and shall be binding upon Grantee, its successors, and assigns.

TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances thereto in any wise belonging to Grantor, unto Grantee, its legal representatives, successors and assigns forever, and Grantor does hereby bind itself, its successors and assigns, to WARRANT SPECIALLY AND FOREVER DEFEND all and singular the Property unto Grantee, its legal representatives, successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, by, through, or under Grantor, but not otherwise, **subject**, however, to the Permitted Exceptions.

The fact that certain encumbrances, limitations, or other matters or conditions may be mentioned, disclaimed, or excepted in any way herein, whether specifically or generally, shall not be a covenant, representation, or warranty of Grantor as to any encumbrances, limitations, or any other matters or conditions not mentioned, disclaimed, or excepted. Notwithstanding anything herein to the contrary, however, nothing herein shall be construed or deemed as an admission by Grantor or Grantee to any third party of the existence, validity, enforceability, scope, or location of any encumbrances, limitations, or other matters or conditions mentioned,

disclaimed, or excepted in any way herein, and nothing shall be construed or deemed as a waiver by Grantor or Grantee of its respective rights, if any, but without obligation, to challenge or enforce the existence, validity, enforceability, scope, or location of same against third parties.

All *ad valorem* taxes and assessments for the Property for the year in which this Special Warranty Deed is executed have been prorated by the parties hereto as of the date of this Special Warranty Deed. By its execution and acceptance of delivery of this Special Warranty Deed, Grantee hereby assumes the payment of all *ad valorem* taxes, standby fees, and general and special assessments of whatever kind and character affecting the Property which are due, or which may become due, for the current tax year or assessment period and for any tax year or assessment period subsequent to the date of this Special Warranty Deed, including, without limitation, taxes or assessments for prior years becoming due by reason of a change in usage or ownership, or both, of the Property or any portion thereof.

IN WITNESS WHEREOF, this Special Warranty Deed is executed on this _____ day of _____, _____.

GRANTOR:

FEDERAL DEPOSIT INSURANCE CORPORATION,
[either as Receiver for _____ (insert name of Institution, including City and State – see first recital on first page of Deed), or in its corporate capacity]

By: _____

Name: _____

Title: Attorney in Fact

GRANTEE:

[print name of legal entity, including type of entity and state in which it was formed]

By: _____

Name: _____

Title: _____

ACKNOWLEDGMENTS

STATE OF _____ §

§

COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of _____, _____, by _____, Attorney in Fact of the Federal Deposit Insurance Corporation, [as Receiver for _____, or, if **applicable:** in its corporate capacity], on behalf of said entity.

Notary Public, State of _____

STATE OF _____ §

§

COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of _____, _____, by _____, _____ of _____, on behalf of said entity.

Notary Public, State of _____

SAMPLE

EXHIBIT "A" to Special Warranty Deed

[Legal Description of the Property]

[NOTE TO PREPARER : This legal description should be, except in unique circumstances, the legal description of the Property as found in the conveyancing instrument into Grantor or into the failed institution named in the first recital hereinabove.]

SAMPLE

EXHIBIT "B" to Special Warranty Deed

[Permitted Exceptions]

[Note to preparer: List hereon (i) the standard printed exceptions contained in Schedule B of the Title Policy, as listed in Section 6.(b)(i)(E) of the Contract or as otherwise set forth in said Schedule B, and (ii) any matters or conditions affecting title to the Property and reflected on the Title Commitment or the Survey and (A) not objected to by Purchaser under Section 3.(b) of the Contract, or (B) waived or deemed waived by Purchaser under Section 3.(c)(ii) of the Contract.]

1. Restrictive covenants recorded in Volume _____, Page _____, and Volume _____, Page _____, all in the _____ Records of _____ County, _____ [the standard exception as to restrictive covenants should be deleted in its entirety unless recorded restrictive covenants are specified as or deemed to be Permitted Exceptions, in which event the recording information thereof shall be listed under such exception].

2. Any discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments or protrusions, or any overlapping of improvements [the standard exception as to survey may be limited to "shortages in area" only, at Purchaser's option and sole expense].

3. Any title or rights asserted by anyone, including, but not limited to, persons, the public, corporations, governments or other entities, to tidelands, or lands comprising the shores or beds of navigable or perennial rivers and streams, lakes, bays, gulfs or oceans, or to lands beyond the line of the harbor or bulkhead lines as established or changed by any government, or to filled-in lands, or artificial islands, or to statutory water rights, including riparian rights, or to the area extending from the line of mean low tide to the line of vegetation, or the rights of access to that area or easement along and across that area.

4. Rights of tenants and/or lessees in possession under any recorded and/or unrecorded leases and/or rental agreements [the standard exception as to rights of parties in possession may be limited to rights of tenants in possession as tenants under any presently effective unrecorded and recorded leases].

5. [e.g., Drainage easement as recorded in Volume _____, Page _____ of the Deed and Plat Records of _____ County, _____, and as shown on that certain survey prepared by _____, surveyed on _____, and updated on _____, with certification executed by _____, Registered Professional Land Surveyor No. _____, on _____, Project No. _____ (herein, the "Survey")].

6. [e.g., Consequences, if any, arising from the encroachment of Building – 1 and Building – 3 over or into the twenty-five foot (25') building setback line pursuant to Zoning B-3, as shown on the Survey].

7. [Continue numbering as needed to list all items required by the above instructions.]

EXHIBIT "D"

[Form of Purchaser Eligibility Certification]

SAMPLE

EXHIBIT "E"

[Form of Confidentiality Agreement]

SAMPLE

EXHIBIT "F"

[Inventory of personalty to be conveyed]

SAMPLE

ATTACHMENT " "

Seller has received certain information from a third party (or parties) that indicates that certain Environmental Matters (as defined in the Real Estate Purchase And Sale Contract to which this Attachment " " is attached (the "Contract")) may be present within or upon the Property (as defined in the Contract). A copy of the report containing that information (specifically, that certain _____ dated _____ prepared by _____), or a portion thereof, has been provided to Purchaser and Purchaser, by its execution of the notice contained herein, hereby acknowledges receipt of such information. This information reveals the following with regard to the Property:

_____.

The information provided hereunder may not be accurate or complete and Seller does not intend for Purchaser to rely upon such information. To that end, Purchaser hereby further acknowledges and agrees that it has not and will not rely upon such information in entering into the Contract or in purchasing the Property. Purchaser hereby further acknowledges that it has had the opportunity to independently examine the Property and will rely solely upon its own examination of the Property in its purchase thereof.

PURCHASER:

[insert name of Purchaser exactly as set forth in the Contract]

By: _____

Name: _____

Title: _____

Date: _____