

## REAL ESTATE CONTRACT

DATE\_\_\_\_\_, 20\_\_

1. **PARTIES:** Name (collectively, the "Buyer") offer to purchase, subject to the terms and conditions set forth herein, from Name (collectively, the "Seller"), the property described in Paragraph 2 of this Real Estate Contract (the "Property"):

2. **LEGAL DESCRIPTION AND ADDRESS:**

Legal description, otherwise known as address

3. **PURCHASE PRICE:** The Buyer shall pay the following to the Seller for the Property (the "Purchase Price"): Cash at closing in the exact sum Purchase amount \$\$\$, subject to the prorations and allocations of closing costs set forth herein.

4. **COSTS:** Seller shall pay the following fees and costs: (i) one-half of any escrow fees and costs; (ii) one-half of any documentary transfer taxes or stamps; (iii) any sales, use, excise, income, franchise or other taxes imposed upon Seller by reason of the transfer of the real properties and improvements contemplated by this Real Estate Contract, including any deficiency, interest or penalty asserted with respect thereto; (iv) one-half of all other closing costs of every kind and character other than costs directly related to Buyer 's financing of the Purchase Price; (v) all of the cost of the Title Commitment and Title Policy; (vi) the cost of the Survey; provided, however, that if the aggregate cost of the Survey, which shall be in the form required by the terms of Section 8 below, exceeds the cost of a survey which would be sufficient to cause the Title Company (as such term is defined below) to remove the "survey exception" from the standard preprinted Schedule B exceptions to ALTA owner 's title insurance coverage, Buyer and Seller agree that Buyer shall pay, as Buyer 's sole expense, all of such excess cost; and (vii) the legal, professional, accounting and consulting fees incurred by Seller, if any, related to negotiation and consummation of the transactions contemplated hereby (collectively, "Seller 's Closing Costs").

Buyer shall pay the following fees and costs: (a) one-half of any escrow fees and costs; (b) one-half of any documentary transfer taxes or stamps; (c) the due diligence, legal, accounting and other professional and consultant fees incurred by Buyer related to negotiation and consummation of the transactions contemplated hereby; (d) all costs directly related to Buyer 's obtaining of financing for all or any portion of the Purchase Price; (e) if applicable, and as set forth above, the cost of the Survey over and above the cost of a survey which would be sufficient to cause the Title Company to remove the "survey exception" from the standard preprinted Schedule B exceptions to ALTA owner 's title insurance coverage; and (f) one-half of all other closing costs of every kind and character (collectively, "Buyer 's Closing Costs").

**5. EARNEST MONEY:** Buyer herewith tenders a check for **Earnest Amount \$\$\$ (10% Sales Price)** made payable to **Title Company Name** (the "Title Company") to be delivered by Seller upon Seller's acceptance of this Real Estate Contract to the Title Company as earnest money (the "Earnest Money") which shall apply toward either the Purchase Price or Buyer's closing costs, at Buyer's election. If: (i) Buyer's requirements regarding title are not fulfilled; (ii) Seller otherwise breaches this Real Estate Contract or (iii) any other contingency of Buyer or condition to Buyer's performance hereunder is unsatisfied or unremoved, the Earnest Money shall be promptly refunded to Buyer by Seller, and Buyer may further pursue any and all legal or equitable rights which may exist as a result of Seller's breach of this Real Estate Contract. If Buyer fails to fulfill its obligations under this Real Estate Contract or, if after all contingencies and/or conditions to Buyer's obligation to consummate the transactions contemplated hereby have been met or satisfied in full, Buyer fails to close the transaction contemplated by this Real Estate Contract, the Earnest Money may, at the sole and exclusive option of the Seller, be retained by the Seller as liquidated damages and as Seller's sole remedy hereunder. Alternatively, Seller may return the Earnest Money to Buyer and assert all legal or equitable rights which may exist as a result of Buyer breaching this Real Estate Contract. Buyer warrants, represents and acknowledges that the check tendered will be honored upon presentation to Buyer's bank, and that Buyer shall be in default of this Real Estate Contract if the check is not honored upon first presentation to Buyer's bank.

**6. CONVEYANCE:** Unless otherwise specified, conveyance of the property shall be made to Buyer by general warranty deed, in fee simple absolute and by warranty Bill of Sale, except it shall be subject to recorded instruments and easements, if any, in accordance with the terms and conditions of this Real Estate Contract. Such conveyance shall include all mineral rights owned by Seller concerning and located on the Property, if any. Seller warrants and represents only the signatures set forth below are required to transfer legal title to the Property.

**7. TITLE REQUIREMENTS:** Seller shall furnish, at Seller's expense and as soon as reasonably possible following the date of Seller's acceptance of this Real Estate Contract, a commitment for title insurance (the "Title Commitment") in form, scope and substance reasonably satisfactory to Buyer issued by the Title Company reflecting good, valid and merchantable title to the Property in Seller and showing Buyer as proposed insured. Such Title Commitment shall commit the Title Company to insure Buyer's ownership of fee simple title in and to the Property under an ALTA Owner's Title Policy customarily utilized in the State of Arkansas (the "Title Policy") in an amount equal to the Purchase Price with the obligation to delete the Schedule B standard preprinted exceptions upon receipt of the Survey and standard Seller's Affidavits (other than taxes not yet due and payable) and free and clear of all exceptions to or exclusions from coverage except those approved in writing by Buyer. The Title Commitment shall list as exceptions all easements, covenants, restrictions, liens, encumbrances, tenancies and other exceptions to title affecting title to the Property (collectively, the "Exceptions") and, when delivered to Buyer, shall be accompanied by legible copies of all instruments or agreements creating such Exceptions. When issued at Closing, the Title Policy shall contain such endorsements as may be reasonably requested by Buyer without expense to Seller, shall contain only those exceptions satisfactory to Buyer and shall otherwise be in form, scope and substance reasonably satisfactory to Buyer and Buyer's counsel.

Buyer shall have the right to review the Title Commitment, including copies of all instruments and agreements shown thereon as Exceptions. All Exceptions (or portions thereof) to which Buyer does not provide Seller written notice of objection within the later of fifteen (15) days after: (i) the date of this Agreement, or (ii) the date of Buyer ' s receipt of the Title Commitment (and all related documents) and the Survey referred to in Paragraph 8 shall be deemed Permitted Exceptions. With respect to any non-Permitted Exception (or portions thereof) to which Buyer objects, Seller shall use Seller ' s best efforts to cure, remove or otherwise satisfy such Exception as soon as reasonably possible following Seller ' s receipt of Buyer ' s notice of objection. In the event that Seller is attempting to cure, remove or otherwise satisfy any Exception, the Parties agree the Closing Date shall be extended for fifteen (15) days without the action of either Party being required to effect such extension; thereafter, if, at the end of such initial fifteen (15) day period, Seller has been unable to effect such cure, removal or other satisfaction, Buyer may, if Buyer elects in Buyer ' s sole judgment (but Buyer shall not be so required), elect to extend the Closing Date for successive fifteen (15) day periods to allow Seller time to effect such cure via the delivery of written notice of extension to Seller. In the event Seller is unable to cure any such Exception, or elects not to do so, Seller shall notify Buyer thereof in writing and Buyer shall have the right, upon written notice to Seller, to terminate this Real Estate Contract or to waive any such Exception and proceed to close. In the event of any termination, Buyer and Seller shall each be released from any and all liability to the other (except those obligations which survive termination) and Buyer shall promptly receive the Earnest Money in full from Seller.

At Closing, Seller shall provide to Buyer at Seller ' s expense the Title Policy in the amount of the Purchase Price insuring Buyer ' s good, valid and merchantable title to the Property, with all standard, preprinted exceptions deleted and subject only to such Exceptions as may be approved by Buyer in the manner set forth above.

Buyer shall furnish to Buyer ' s lender at Buyer ' s cost a mortgagee ' s title policy in the amount of any financing to be obtained by Buyer for all or any part of the Purchase Price, if required by Buyer ' s lender. The parties acknowledge that the premium for mortgagee ' s coverage is nominal.

**8. SURVEY:** As soon as reasonably possible following the date of Seller ' s acceptance of this Real Estate Contract and no later than twenty-one (21) days thereafter, Seller shall cause to be prepared and delivered to Buyer a current survey (the "Survey") of the Property prepared by a land surveyor licensed by the State of Arkansas. The Survey shall (i) be certified to Buyer, Buyer ' s lender, and the Title Company; (ii) be prepared in accordance with the most recent survey standards adopted by ALTA/ACSM for an Urban Survey in 1997, including Table A Items 1, 2, 3, 4, 6, 7(a), 7(b)(1), 8, 9, 10, 11, 13 and 16 all of which are set forth upon **Exhibit One** to this Real Estate Contract, attached hereto and made a part hereof; (iii) set forth the legal description of the Property, (iv) show all encroachments and improvements (including fences, easements (visible or recorded), building lines (together with recording information concerning the documents creating any such easements and building lines), curb cuts, sewage, water, electricity, gas and other utility facilities, roads and means of physical and record ingress and egress to and from such Property by public roads (including the dimensions of abutting streets) and the net (after deduction of land dedicated or used

or subject to easements for streets, roads, highways, fire lanes and drainage courses) and gross area (in each case, accurate to the one thousandth of an acre) of the land included in such Property; (v) that such Property is not located in a wetlands area, a flood plain, flood risk or mud slide area under the Federal Emergency Management Agency Flood Insurance Rate Maps or in an area designated as a special flood hazard area by the U.S. Department of Housing and Urban Development; (vi) show improvements on adjoining property which are within five feet of the property lines of such Property, and (vii) otherwise be satisfactory for purposes of obtaining title insurance coverage over survey exceptions. The cost of the Survey shall be governed by Buyer's and Seller's agreement set forth in Paragraph 4 above.

**9. PRORATIONS:** Taxes and special assessments due on or before closing shall be paid by Seller. Any deposits on rental property are to be transferred to Buyer at closing. Insurance, general taxes and special assessments, shall be prorated as of closing, unless otherwise specified herein.

**10. CLOSING:** Closing is the date and time at which the Seller delivers the executed and acknowledged deed. If this Contract is not terminated pursuant to the terms hereof, the closing date is designated to be not later than July 31, 2001 nor earlier than July 15, 2001 at the discretion of Buyer. The closing date may be extended only by written agreement of Buyer and Seller. Buyer and Seller agree that time is of the essence. If the sale is not consummated by the closing date (or any written extension thereof), the parties shall have the remedies available to them in equity or at law, including the remedies provided to Seller in Paragraph 5.

Buyer and Seller agree as follows regarding Closing. Buyer shall promptly deliver written notice (the "Closing Notice") to Seller when the conditions to Buyer's obligations to consummate the transactions contemplated hereby are satisfied or waived by Buyer and stating that Buyer is ready to close the transactions contemplated hereby in accordance with their terms and conditions hereof. Buyer shall designate in the Closing Notice a date upon which such transactions shall close, which date shall be no sooner than seven (7) days from the date of the Closing Notice. Within two (2) calendar days after the date of the Closing Notice, Buyer shall either (i) deposit the full Purchase Price with the Title Company to be held by the Title Company pending the closing or (ii) deliver to the Title Company a portion of the Purchase Price in cash and a closing letter from its lender for the balance and shall notify Seller in writing of such delivery. Buyer's funds, while held by the Title Company, shall remain Buyer's funds and all earnings thereon while so held shall be the property of Buyer and for Buyer's account. Upon both (i) Seller's receipt of the Closing Notice; and (ii) Buyer's notice to Seller that the Purchase Price has been delivered to the Title Company, Seller shall proceed to vacate the Property, together with all of Seller's personal properties (other than those items to remain as set forth in this Real Estate Contract) so that possession of the Property can be delivered to Buyer at closing.

**11. POSSESSION:** Possession of the Property shall be delivered to Buyer upon the closing and Seller's delivery of executed and acknowledged Deed.

**12. OTHER CONTINGENCY:**

- A. No Other Contingencies. Buyer and Seller agree there are no other contingencies other than the terms and conditions set forth in this Real Estate Contract.
- B. No Backup Agreements. During the term of this Real Estate Contract it is understood and agreed that the Seller does not have the right to enter into backup Real Estate Contracts.

**13. FIXTURES AND ATTACHED EQUIPMENT:** Unless specifically excluded herein all fixtures and attached equipment, if any, are included in the Purchase Price. Such fixtures and attached equipment shall include but not be limited to the following: refrigerator, dishwasher, disposal, trash compactor, ranges, ovens, water heaters, exhaust fans, heating and air conditioning systems, alarm systems, telephone systems, plumbing and septic systems, electrical systems, intercom systems, ceiling fans, window air conditioners, carpeting, indoor and outdoor light fixtures, window and door coverings and related hardware (including but not limited to all drapes), gas or electric grills, awnings, mailboxes, garage door openers and all remote controls, antennas, fireplace inserts, pools, spas and related equipment and any and all other items bolted, nailed, screwed, buried or otherwise attached to the Property in a permanent manner, excepting only the following:

(LIST)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Also, television satellite receiver equipment, water softeners, and propane and butane tanks remain, if owned by Seller.

In addition, in return for the delivery of the Purchase Price by Buyer, the following items shall be conveyed to Buyer on the date of Closing and shall not be removed from the Property by Seller: (LIST)\_\_\_\_\_. Buyer specifically agrees, to avoid any confusion, that (open) \_\_\_\_\_ shall be retained by Seller as Seller 's property following the Closing.

**14. BUYERS' DISCLAIMER OF RELIANCE:** BUYER CERTIFIES THAT BUYER HAS PERSONALLY INSPECTED, OR HAD A REPRESENTATIVE INSPECT, AND WILL PERSONALLY INSPECT AND HAVE A REPRESENTATIVE INSPECT DURING THE INSPECTION PERIOD AS DEFINED IN PARAGRAPH 15(A), THE PROPERTY AS FULLY AS BUYER DESIRES AND IS NOT RELYING AND SHALL NOT HEREAFTER RELY UPON ANY WARRANTIES, REPRESENTATIONS OR STATEMENTS OF ANY OTHER PARTY, REGARDING THE AGE, SIZE, QUALITY, VALUE OR CONDITION OF THE PROPERTY, INCLUDING WITHOUT LIMITATION ALL IMPROVEMENTS, ELECTRICAL OR MECHANICAL SYSTEMS, PLUMBING OR

APPLIANCES, OTHER THAN THOSE SPECIFIED HEREIN, IF ANY, WHETHER OR NOT ANY EXISTING DEFECTS IN ANY SUCH REAL OR PERSONAL PROPERTY MAY BE REASONABLY DISCOVERABLE BY BUYER OR A REPRESENTATIVE HIRED BY BUYER. BUYER IS STRONGLY URGED THAT STATUS OF TITLE, PROPERTY CONDITION, QUESTIONS OF SURVEY AND ALL REQUIREMENTS OF SELLER AND BUYER HEREUNDER SHOULD EACH BE INDEPENDENTLY VERIFIED AND INVESTIGATED.

**15. INSPECTION AND REVIEW PERIOD:**

A. General. Buyer shall have the period through and including May 2, 2001 to inspect ("Inspection Period") the physical condition of the Property. Buyer and Seller acknowledge that Buyer has not received either the results of a termite inspection of the Property nor the Termite Control Policy (as such term is defined below) contemplated by Paragraph 18 below, to be delivered by Seller at Closing.

Seller agrees that between the date of Seller 's acceptance of this Real Estate Contract and the date of Closing, Buyer and Buyer 's agents, consultants and representatives shall have the right to enter the Property at any reasonable time and from time-to-time, upon reasonable notice to Seller (which notice may be oral or in writing), to inspect and re-inspect all or any portion of the Property or the improvements thereon. Seller agrees to cooperate with Buyer as may be reasonably required to allow all such requested access to the Property. Buyer shall indemnify and hold Seller harmless from any loss, cost or damage associated with inspections made hereunder. This indemnity obligation shall survive termination of this Contract. Buyer shall have the right to terminate this Contract for any or no reason prior to the expiration of the Inspection Period by providing written notice to Seller. IF BUYER DOES NOT TERMINATE THIS CONTRACT PRIOR TO THE EXPIRATION OF THE INSPECTION PERIOD, THE INSPECTION IS TO BE DEEMED ACCEPTABLE TO BUYER AND THE COST OF REPAIRING ANY DEFECTS IDENTIFIED IN THE INSPECTION SHALL BE SOLELY AT BUYER'S EXPENSE. SELLER SHALL NOT BE OBLIGATED TO EXPEND FOR ANY REPAIRS OR PROVIDE A CREDIT AGAINST THE PURCHASE PRICE CONCERNING ANY REPAIRS. If Buyer terminates this Contract, it shall be entitled to a return of the Earnest Money and neither party shall have any obligation to the other except for those obligations that survive the closing.

B. Termite Control. Seller agrees that the Termite Control Policy, and the results of any inspection of the Property undertaken in connection therewith, shall be reasonably satisfactory to Buyer at Closing.

C. Pre-Closing Condition of Property. Between the date of this Real Estate Contract and the date of Closing, Seller agrees to keep the Property in the condition existing on the date of this Real Estate Contract, normal wear and tear excepted. In connection with the agreements of Buyer and Seller set forth in this Paragraph 15(C), Buyer and Seller agree that: (i) Seller has no obligation to repair the Property other than to keep the Property in the condition existing on the date of this

Real Estate Contract; and (ii) the phrase "normal wear and tear" shall not relieve Seller of Seller's obligations hereunder to keep and maintain the Property in the condition existing on the date of this Real Estate Contract.

**16. HOME WARRANTY PLANS:** No home warranty contract concerning the condition or usefulness of any real or personal property is to be conveyed from Seller to Buyer for any period after the closing.

**17. SELLER PROPERTY DISCLOSURE:**

- a. Seller will provide to Buyer a written disclosure about the condition of the Property which will contain information that is true and correct to the best of the Seller's knowledge. The disclosure should be presented to Buyer in a timely manner after the acceptance of this Real Estate Contract and Buyer has three (3) business days after receipt of disclosure to accept or reject said disclosure. If Seller fails to provide the disclosure in a timely manner, Buyer may request in writing for the Seller to provide a disclosure within three (3) business days and if the Seller does not provide the disclosure the Buyer may declare the Real Estate Contract null and void, with Buyer to receive a refund of the earnest money. If Buyer finds the disclosure unacceptable within three (3) business days after receipt of disclosure, this Real Estate Contract may be declared null and void by the Buyer, with Buyer to receive a refund of the earnest money. Receipt of this disclosure neither limits nor restricts in any way Buyer's Disclaimer of Reliance set forth in Paragraph 14 of this Real Estate Contract, nor the rights provided Buyer in Paragraph 15(A).
- b. Seller represents and warrants to Buyer the following: To the best of Seller's knowledge, there does not exist any underground storage tank or Hazardous Material on, in, over, under, or emanating from all or any portion of the Property, nor has Seller nor any person placed or caused to be placed on, in, over, under, or released from all or any portion of the Property, any Hazardous Material on, in, over, under, from or all or any portion of the Property. As used herein, "Hazardous Material" means (a) any pollutant, contaminant, toxic or hazardous waste or substance including, without limitation, petroleum, radon, asbestos, lead-based paint, PCBs and urea formaldehyde, or (b) any use or activity involving any substance which would cause the Property to become a hazardous waste treatment, storage or disposal facility within the meaning of, or otherwise bring the Property within the ambit of, any federal or state law or local ordinance or any other environmental law, rule or regulation, or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree now or hereafter in force, regulating, relating to or imposing liability or standards on conduct concerning any hazardous or toxic material.

**18. TERMITE CONTROL REQUIREMENTS:** Seller shall furnish to Buyer, at Seller's cost and at closing, a termite control policy (the "Termite Control Policy") from a licensed termite control

company accompanied by a certificate showing, to Buyer ' s reasonable satisfaction, that the Property is free from termite infestation. If Buyer is obtaining financing, such certificate shall also be in a form acceptable to Buyer ' s lender.

**19. AGENCY: SELLING AGENT FIRM REPRESENTS BUYER (NO LISTING AGENT FIRM):** Seller acknowledges that NONE (the "Selling Agent Firm") and all licensees associated with the Selling Agent Firm are the agents of the Buyer and that it is the Buyer who employed them, whom they represent, and to whom they are responsible. Seller acknowledges that at first contact, the Selling Agent Firm verbally disclosed that the Selling Agent Firm represents the Buyer. Any reference to "Listing Agent Firm" in this Real Estate Contract will be considered to mean the Selling Agent Firm, both Buyer and Seller acknowledging that all agents involved in this Real Estate contract only represent the Buyer. Payment of any and all commissions or fees earned by Agent is solely the responsibility of Buyer.

**20. RISK OF LOSS:** Risk of loss or damage to the Property by fire or other casualty occurring prior to the time Seller delivers an executed and acknowledged deed to Buyer is expressly assumed by Seller.

**21. GOVERNING LAW:** This Real Estate Contract shall be governed by the laws of the State of Arkansas.

**22. MERGER CLAUSE:** This Real Estate Contract, when executed by both Buyer and Seller, shall contain the entire understanding and agreement between the Buyer and Seller with respect to all matters referred to herein and shall supersede all prior or contemporaneous agreements, representations, discussions and understandings, oral or written, with respect to such matters.

**23. ASSIGNMENT:** This Real Estate Contract may not be assigned by Buyer or Seller without the prior written consent of the other, such consent not to be unreasonably withheld.

**24. EXPIRATION:** This Real Estate Contract expires if not accepted on or before DATE, 20\_\_ at 12:00 Noon.

**25. SELLER ' S DELIVERIES:** Not later than ten (10) days after the date of Seller ' s acceptance of this Real Estate Contract, Seller shall, to the extent the following information is in Seller ' s possession or under Seller ' s reasonable control, make available to Buyer for inspection or copying, at Buyer ' s expense, originals or true, complete and correct copies of the following items (collectively, "Seller ' s Deliveries"):

(a) True, correct and complete copies of all plans and specifications for the Property (including plans and specifications for any renovations or additions thereto) and any other engineering and architectural plans and specifications, drawings, feasibility and engineering studies and environmental reports and studies relating to the Property, to the extent in Seller ' s possession or under Seller ' s reasonable control;



(b) True, correct and complete copies of all drawings of underground utilities (including sewer, water, gas, cable, telephone and electrical service cables) servicing the Property, to the extent in Seller ' s possession or under Seller ' s reasonable control;

(c) True, correct and complete copies of all existing abstracts, title commitments and/or title policies relating to the Property and to any easements, documents, agreements and instruments, including instruments shown as exceptions to the coverage thereof, to the extent in Seller ' s possession or under Seller ' s reasonable control;

(d) True, correct and complete copies of the most recent real estate tax bill and the most recently issued real estate tax assessment notices, if any, pertaining to the Property;

(e) True, correct and complete copies of all equipment leases and/or maintenance, repair, service or supply contracts or agreements, including specifically Seller ' s existing termite/pest control contract, relating to the Property or to any services to be provided to the Property or to Seller regarding the Property;

(f) True, correct and complete copies of Seller ' s utility records for the Property from January 1, 2000 until the end of the month immediately preceding the date of Seller ' s acceptance of this Real Estate Contract that are available upon request from the utility companies;

(g) A description, in writing and reasonable detail of all repair, rehabilitation and/or replacement by the Seller of any portion of the Property during the period of time from January 1, 1999 until the end of the month immediately preceding the date of Seller ' s acceptance of this Real Estate Contract;

(h) A description, in writing and reasonable detail, of when the improvements on the Property were last fully painted and a detailed description of how such painting was effected; and

(i) As to all hot water heaters and all heating and air conditioning units on the Property, a description, in writing and reasonable detail, of when such equipment was last fully replaced and any maintenance or repair thereto since last the date of last replacement.

In addition, Seller agrees that: (i) between the date of Seller ' s acceptance of this Real Estate Contract and the date of Closing, Seller agrees to provide to Buyer, promptly and in full, any other information regarding the Property reasonably requested by Buyer which is in Seller ' s possession or under Seller ' s control or which may be obtained by Seller without unreasonable or material expense; and (ii) on the date of Closing, Seller shall deliver to Buyer the originals of the documents, instruments and agreements addressed in subparagraph (a) through (e) preceding, and such originals shall become Buyer ' s property on the date of Closing.

**26. BUYER ' S CONDITIONS TO CLOSING:** Buyer ' s obligations to consummate the transactions contemplated by this Real Estate Contract are subject to satisfaction in full of the following conditions precedent, which may be waived by Buyer in Buyer ' s sole judgment:

(a) The representations and warranties of Seller contained in this Agreement shall be true and correct both when made and on the date of Closing.

(b) Each of the obligations of Seller to be performed by Seller on or before the Closing pursuant to the terms of this Real Estate Contract shall have been duly performed on or before the Closing Date.

(c) Seller's title to the Property and all improvements thereon as shown by the Title Commitment and the Survey shall be (i) good, valid and merchantable and (ii) reasonably satisfactory to Buyer and Buyer's counsel.

(d) Buyer shall have received the termite policy and termite certificate in form, scope and substance reasonably satisfactory to Buyer.

(e) There shall have been no material damage or destruction to the Property. For the purposes of this Paragraph 26(e), "material" shall mean damage or destruction to the Property, including but not limited to all improvements located on the Property, of which the cost to repair, rehabilitate or otherwise cure shall exceed, in the aggregate and in the reasonable judgment of Buyer, the sum of Five Thousand Dollars (\$5,000).

(f) The Property shall be free from Hazardous Materials.

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IN WITNESS WHEREOF, Buyer and Seller hereby affix their signatures as of the date set forth above.

**BUYER:**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

**SELLER:**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

SAMPLE

EXHIBIT ONE TO REAL ESTATE CONTRACT

If checked, the following optional items are to be included in the ALTA/ACSM LAND TITLE SURVEY:

- |   |  |
|---|--|
| <p>1. <input checked="" type="checkbox"/> Monuments placed (or a reference monument or witness to the corner) at all major corners of the boundary of the property, unless already marked or referenced by an existing monument or witness to the corner.</p> <p>2. <input checked="" type="checkbox"/> Vicinity map showing the property surveyed in reference to nearby highway(s) or major street intersection(s).</p> <p>3. <input checked="" type="checkbox"/> Flood zone designation (with proper annotation based on Federal Flood insurance Rate Maps or the state or local equivalent, by scaled map location and graphic plotting only.)</p> <p>4. <input checked="" type="checkbox"/> Land are as specified by the client.</p> <p>5. <input type="checkbox"/> Contours and the datum of the elevations.</p> <p>6. <input checked="" type="checkbox"/> Identify, and show if possible, setback, height and bulk restrictions of record or disclosed by applicable zoning or building codes (in addition to those recorded in sub division maps). If none, so state.</p> <p>7. <input checked="" type="checkbox"/> (a) Exterior dimensions of all buildings at ground level</p> <p style="margin-left: 20px;"><input type="checkbox"/> (b) Square footage of:</p> <p style="margin-left: 40px;"><input checked="" type="checkbox"/> (1) exterior footprint of all buildings, or gross floor area of all buildings, at ground level;</p> <p style="margin-left: 40px;"><input type="checkbox"/> (2) other areas to be defined by the client</p> <p style="margin-left: 20px;"><input type="checkbox"/> (c) Heights of all buildings above grade at a defined location.</p> <p>8. <input checked="" type="checkbox"/> Substantial, visible improvements (in addition to buildings) such as signs, parking areas or structures, swimming pools, etc.</p> <p>9. <input checked="" type="checkbox"/> Parking areas and, if striped, the striping and the type (e.g. handicapped, motorcycle, regular, etc.) and number of parking spaces.</p> | <p>10. <input checked="" type="checkbox"/> Indication of access to a public way such as curb cuts, driveways marked.</p> <p>11. <input checked="" type="checkbox"/> Location of utilities serving or existing on the property as evidenced by on-site observation or as determined by records provided by client, utility companies and other appropriate sources (with reference as to the source of information) (for example):</p> <p style="margin-left: 20px;">(a) railroad tracks and sidings;</p> <p style="margin-left: 20px;">(b) manholes, catch basins, valve vaults or other surface indications of subterranean uses;</p> <p style="margin-left: 20px;">(c) wires and cables (including their function) crossing the surveyed premises, all poles on or within ten feet of the surveyed premises, and the dimensions of all crosswires or overhangs affecting the surveyed premises; and</p> <p style="margin-left: 20px;">(d) utility company installations on the surveyed premises.</p> <p>12. <input type="checkbox"/> Governmental Agency survey-related requirements as specified by the client.</p> <p>13. <input checked="" type="checkbox"/> Significant observations not otherwise disclosed.</p> <p>14. <input type="checkbox"/> Observable evidence of earth moving work, building construction or building additions within recent months.</p> <p>15. <input type="checkbox"/> Any changes in street right of way lines either completed or proposed, and available from the controlling jurisdiction. Observable evidence of recent street or sidewalk construction or repairs.</p> <p>16. <input checked="" type="checkbox"/> Observable evidence of site use as a solid waste dump, sump or sanitary landfill.</p> <p>17. _____<br/>_____<br/>_____</p> |
|---|--|

\_\_\_\_\_  
Buyer

\_\_\_\_\_  
Seller