

AGREEMENT OF PURCHASE AND SALE

This Agreement of Purchase and sale ("Agreement Buyer Agency Agreement" ("Agreement"), dated as of _____, is made by and between:

 ("Buyer" or "Lessee"), whose address is _____
 _____, telephone number _____
 (_____) _____, Fax No. _____
 (_____) _____, and;

 ("Agent"), whose address is _____
 _____, telephone number _____
 (_____) _____, Fax No. _____
 (_____) _____,

1. The Contract. Seller agrees to sell and convey to Purchaser, and Buyer agrees to purchase and accept conveyance of the Subject Property as herein defined, under the terms and conditions set forth.

2. Subject Property. The Subject Property consists of that parcel of land and any improvements thereon, containing approximately _____ square feet, located at _____ (the "Subject Property"), as more particularly described in Exhibit "A" attached hereto and made apart thereof.

3. Consideration. Seller agrees to accept and Buyer agrees to pay as consideration (the "Purchase Price") for the sale of Subject Property a sum equal to _____ Dollars (\$_____).

[OPTIONAL:

4. Survey. Buyer is to obtain, at Buyer's expense, its own survey. Seller shall provide Buyer with existing surveys in its possession.]

5. Deposit. Within _____ () business days following receipt of Buyer of a duly executed copy of this Agreement evidencing Seller's acceptance, Buyer shall deliver to _____ ("Escrow Agent"), for deposit, the sum of _____ Dollars (\$_____) as a deposit against Purchase Price of the Subject Property. **[OPTIONAL:** If Buyer shall determine, pursuant to paragraph 7 below, that the Subject Property is suitable for the project, then Buyer shall, at the end of the Feasibility Study in Paragraph 6 below, deliver to Escrow Agent the additional sum of _____ Dollars (\$_____), and all funds then deposited shall be non-refundable, except upon Seller's default. Any and all such sums delivered to Escrow Agent during the 120-day

Feasibility Study period, or any extension thereof, shall be deposited and maintained in said Escrow Agent's sales escrow account.] The deposit SHALL/SHALL NOT [**CHOOSE ONE**] be considered Earnest Money.

[OPTIONAL:

6. Feasibility Study. Buyer shall have one hundred twenty (120) days from the date of execution of this Agreement by Seller to determine the feasibility of constructing a project on the Subject Property. Buyer reserves the right to solicit potential tenant(s) and/or assignee(s) for the project, within the scope of the Feasibility Study Period. Such solicitation may include signage, printed material or such other form of marketing, deemed commercially reasonable by Purchaser. On or prior to the end of the one hundred twenty (120) day period, if Buyer shall determine in its sole and absolute discretion, that the Subject property is not suitable for the project, then the Buyer shall have the right, by written notice to Seller, to extend the Feasibility Study period for an additional ninety (90) day period ("Extended Period"), by depositing additional money in accordance with Paragraph 5 above. In the event Buyer extends this Agreement, all prior deposits with Escrow Agent shall become non-refundable, except upon Seller's default, and all rights to terminate, with respect to the Feasibility Study period, shall cease. Within five (5) days of Seller's acceptance of this Agreement, Seller shall deliver to Buyer (a) copies of all leases executed on and/or relating to the Subject Property, (b) copies of all reports and/or studies made by the Environmental Protection Agency (EPA) or other authority having jurisdiction over Subject Property, and (c) all such other information in Seller's possession, or that Seller may reasonably obtain, pertaining to Subject Property, that Buyer may request from time to time.]

7. Hazardous Materials. Purchaser, may at its sole discretion, obtain their own environmental report within the one hundred twenty (120) day period and determine if the Subject Property is acceptable to Purchaser's requirements regarding hazardous materials.

8. Representations of Seller. Seller makes the following representations to Buyer which are true and correct as of the date of execution of this Agreement and which shall be true and correct at Closing:

- a. Seller holds good and indefeasible title to the Subject Property, free and clear of any liens, encumbrances or adverse claims;
- b. To the best of Seller's knowledge, Seller has not received any notice, and has no actual knowledge, of any pending or threatened litigation or pending or threatened condemnation proceeding affecting the Subject Project.
- c. To the best of the Seller's knowledge, there are no mechanic's liens or unrecorded liens against the Subject Property or for any activities attributable to Seller, its agents or employees; and

- d. Seller is a _____, **[SPECIFY TYPE OF ENTITY]** validly existing and in good standing, with full power and authority to enter into this Agreement, to consummate the sale and purchase of the Subject Property, and to perform the covenants and agreements of Seller, all as contemplated by this Agreement.

8. **Closing.** The Subject Property shall be sold and purchased at a closing to be held at _____, at a time mutually acceptable to Seller and Purchaser, within thirty (30) days after the later of (i) the end of the one hundred twenty (120) day Feasibility Study period, or any Extended Period; or (ii) at such earlier time as Buyer shall give Seller written notice, whichever occurs first. At closing Seller shall deliver to Purchaser, at Seller's sold cost and expense:

- a. A special warranty deed (the "Deed") conveying title to the Subject Property,
- b. Possession of the Subject Property; and
- c. Such other documents as are reasonably requested by the Title Company or Buyer to close the sale and purchase of the Property.

9. **Purchaser's and Seller's Obligations at Closing.** Purchaser, at Purchaser's expense, may obtain their own title abstract within the one hundred twenty (120) day Feasibility Study period and determine if title is satisfactory. Seller agrees to forward all present title information within three (3) days of signing of Purchase Agreement by both Seller and Purchaser.

10. **Closing Costs.** Buyer shall pay for title search or abstract, preparation of title, it's attorney and closing fees, survey, title insurance premium and other expenses in connection with Purchaser's obligations hereunder. Seller shall pay for its transfer tax, recording fees, its attorney and closing fees.

11. **Defaults.** If Buyer has performed or tendered full performance of all of Purchaser's covenants and agreements herein set forth and Seller fails or refuses to consummate this Agreement or perform the covenants herein contained for any reason, then Buyer may, at its option (1) cancel and terminate this Agreement and claim the return of the Deposit; (ii) deliver notice to Seller specifying the default, and, if Seller has not cured the default within thirty (30) days, Purchaser may cure such default and deduct the cost of curing such default from the Purchase Price payable hereunder, or (iii) Buyer may bring suit against Seller for specific performance of this Agreement. If Seller has performed or tendered full performance of all of Seller's covenants and agreements herein set forth and Buyer then fails or

refuses to consummate this Agreement for any reason, the Seller may, at its option, cancel and terminate this Agreement and retain the Deposit or bring suit against Buyer for specific performance.

12. Survival. It is mutually agreed by the parties hereto that any provision contained in this Agreement which shall by its nature or terms impose any obligations or duty upon any party hereto, or give any right or benefit to any party hereto, continuing beyond the date of conveyance of the Subject Property, will not be canceled, but will instead survive such conveyance and will continue in full force and effect until all such obligations and duties are fully performed and all such rights and benefits are fully realized.

13. Assignability. Buyer shall have the right to assign this Agreement and all of Purchaser's rights and remedies hereunder, with prior written consent by Seller, which consent shall not be unreasonably withheld. In such case Buyer shall be relieved of all obligations hereunder and the assignee shall succeed to all of Purchaser's obligations and for all purposes be substituted and deemed to be Buyer hereunder. This Agreement may not be assigned, pledged, or hypothecated by Seller without the prior written consent of the Purchaser, and any attempt to do so without such consent shall be void and in no way binding upon the Purchaser. Subject to the above limitation on assignment, this Agreement shall be binding upon and inure to the benefit of the successor and assigns of the parties hereto. If an assignment has been properly consented to and the assignee has assumed all the obligations of the assignor hereunder, then the assignor shall be relieved of all further obligations hereunder. Notwithstanding the above, Buyer may assign this Agreement to an affiliate or to a limited or general partnership in which it or an affiliate is the general partner without the consent of Seller.

14. Inspection. Seller hereby agrees that any time during the term of this Agreement, Buyer or its agents may enter upon the Subject Property and make, at Purchaser's sole cost, risk and expense, any inspections, tests, surveys and studies. Buyer shall defend, indemnify and hold Seller, Seller's broker and Seller's agent harmless from and against any and all claims demands, causes of actions, proceedings and lawsuits for any and all damages losses, reimbursement, compensation, injuries, costs, expenses and other relief of any and every kind arising from or in connection with any inspection, test, survey, study, work, service and/or other act performed by, or on behalf of, or at the request of the Purchaser, on or relating to the Subject Property, or caused by the Purchaser, including but not limited to any damage, loss or injury to the Subject Property, or to any natural or juridical person, or to any type of property, right or interest of any natural or juridical person.

15. Notices. All notices, demands, or requests provided for or permitted to be given pursuant to this Agreement must be in writing.

16. **Governing Law.** This Agreement shall be construed in accordance with the laws of the State of Louisiana. Time is of the essence of this Agreement. If the final day of any time period or limitation set out in any provision of this Agreement falls on a Saturday, Sunday or legal holiday under the State of Louisiana, then such period shall be extended to the next day which is not a Saturday, Sunday or legal holiday.

17. **Modification of This Agreement.** This Agreement may not be modified, amended or terminated except in writing signed by the Seller and the Buyer or their respective successors or assigns. This Agreement contains the entire understanding of the parties hereto with regard to the subject matter contained herein, and supercedes all prior agreements or understanding between or among the parties needs relating to such subject matter. The Buyer and the Seller may waive any of the conditions contained herein or any of the obligations of the other party hereunder, but any such waiver shall be effective only if in writing and signed by the party waiving such condition or obligation.

18. **Multiple Counterparts.** This Agreement may be executed in one or more counterparts, each of which, when executed and delivered, shall be an considered an original instrument, but all of which shall be considered one and the same instrument, and shall become binding when one or more counterparts have been signed by each party hereto and delivered to the other party hereto.

19. **Authority.** Each party represents unto the other that this Agreement, the transaction contemplated herein, and the execution and delivery thereof, have been duly authorized by all necessary proceedings and actions.

21. **Commission.** Buyer and Seller hereby represent to one another that no real estate agent, or broker is entitled to any fees or commissions in connection with the transactions contemplated hereunder, except _____ and _____. Commissions shall be calculated in accordance with the listing broker's commission agreement with Seller, and shall be paid at Closing. Seller shall deliver within ten (10) days after the effective date of this Agreement, a copy of the listing broker's Commission Agreement. The foregoing commission is payable by and the sole responsibility of the Seller shall be payable out of the proceeds from the Purchase Price at Closing. The parties hereby agree to indemnify and hold harmless the other party as to any claims by any agent or broker claiming by, through or under Seller or Purchaser, as the case may be.

22. **Condemnation.** If during the pendency of this Agreement and prior to the closing of the sale and purchase of the Subject Property, condemnation proceeding are threatened or commenced with respect to any portion of the Subject Property, Purchase may, at its option, terminate this Agreement by written notice to the Seller given within ten (10) days after Buyer is advised by written notice from Seller of the threat of the commencement of such

condemnation proceedings. If Buyer does not exercise such right to terminate with the period described, then Buyer, or his legal representative by his attorneys, shall have the right to appear and defend in such condemnation proceedings, and any award in condemnation shall become the property of Buyer in the event the sale is closed and the Purchase Price shall not be reduced.

IN WITNESS WHEREOF, this instrument has been executed by Buyer and Seller on the dates shown below. The latest of such dates shall be deemed the date of this Agreement. If both parties shall not have executed this Agreement on or before _____ then this Agreement shall be null and void.

WITNESSES:

SELLER:

By: _____

Date: _____

Title: _____

PURCHASER:

By: _____

Date: _____

Title: _____