



BUY AND SELL AGREEMENT FOR VACANT LAND

Office of _____, REALTOR®

_____, (city), Michigan Phone: _____ Fax: _____

Email: _____ Date: _____, _____ (time)

1. The undersigned Buyer and Seller each acknowledge the Selling Salesperson is acting as (check one):

- Subagent of the Seller Agent of the Buyer Dual Agent (with written, informed consent of both Buyer and Seller)
- Other (specify) : _____

2. **Buyer's Offer.** The undersigned (the "Buyer") offers and agrees to purchase the real property located in the _____ of _____, _____ County, Michigan, commonly known as _____,

Permanent Parcel Number _____ and legally described as follows:

_____ together with all fixtures and improvements situated on the property (the "Improvements"), all of which is collectively referred to herein as the "Property", except the following:

3. **Purchase Price.** The purchase price for the Property is:

_____ Dollars (\$_____).

4. **Terms of Payment** shall be as indicated by "X" below (other unmarked terms of purchase do not apply).

Cash. The Buyer shall pay the full purchase price to the Seller upon execution and delivery of a warranty deed and performance by Seller of the closing obligations specified in Section 17 below.

New Mortgage. The Buyer shall pay the full purchase price to the Seller upon execution and delivery of a warranty deed and performance by Seller of the closing obligations specified in Section 17 below, contingent upon the Buyer's ability to obtain a _____ type _____ year mortgage loan in the amount of \$_____ bearing interest at a rate no greater than _____% per annum. The Buyer shall apply for the mortgage loan immediately and accept it promptly if tendered. If Buyer does not deliver to Seller on or before _____ (date), proof that Buyer has accepted a mortgage loan commitment, Seller may thereafter at any time treat this contingency as not having been satisfied and terminate this Agreement by written notice to Buyer, unless Buyer has waived this contingency in writing, prior to the date indicated in this paragraph.

Contract **Purchase Money Mortgage.** The Buyer shall pay the full purchase price to the Seller pursuant to the terms and conditions stated in a West Michigan Regional Form Number 1 Land Contract or a Purchase Money Mortgage upon performance by Seller of the closing obligations specified in Section 17 below. The Land Contract or Purchase Money Mortgage shall provide a down payment of \$_____ and payment of the balance \$_____ in _____ installments of \$_____ or more, at Buyer's option, including interest at the rate of _____% per annum computed monthly, interest to start on date of closing, and first payment to become due _____ days after date of closing. The entire unpaid balance will become due and payable _____ months after closing.

Seller understands that consummation of the sale or transfer of the Property shall not relieve the Seller of any liability that Seller may have under the mortgage(s) to which the Property are subject, unless otherwise agreed to by the lender or required by law or regulation.

Additional Provisions:

5. **Survey.** A new recertified existing boundary survey with iron corner stakes and with all easements of record, improvements, and encroachments (if any); and/or ALTA survey showing all easements of record, improvements, and encroachments, if any, shall be provided by

Buyer Seller as soon as possible after the later to occur of (i) the title insurance commitment referenced in Section 6 below is delivered to the party responsible for the survey; and (ii) Buyer's right to terminate under Section 7 below is waived or deemed to have been waived. If the survey reveals a matter that materially and adversely affects the value of the Property or Buyer's intended use of the Property, Buyer shall have the right to terminate this Agreement by giving Seller written notice within _____ (_____) calendar days after copies of both the survey and title commitment referenced in Section 6 below are delivered to Buyer, otherwise Buyer's right to terminate this Agreement pursuant to this Section shall be deemed to have been waived. Other: _____

Buyer's Initials

Seller's Initials

6. Title Insurance. At Seller's expense, Seller shall provide Buyer with a standard ALTA owner's policy of title insurance in the amount of the purchase price, effective as of the date of closing. A commitment to issue such policy insuring marketable title (as defined in Section 10 below) vested in Buyer, including a tax status report, shall be ordered within seven (7) calendar days after the Effective Date of this Agreement, and shall be delivered as soon as feasible thereafter. If any matter disclosed by the title commitment adversely and materially affects the value of the Property or Buyer's intended use of the Property, Buyer shall have the right to terminate this Agreement by giving Seller written notice within _____ (_____) calendar days after copies of both the title commitment and survey referenced in Section 5 above are delivered to Buyer, otherwise Buyer's right to terminate this Agreement pursuant to this Section shall be deemed to have been waived. A matter disclosed on the title commitment that is in the form of a lien that is liquidated in amount and that can be readily discharged (such as a mortgage) shall not be grounds for termination of this Agreement by Buyer under this Section so long as Seller discharges such lien(s) at the closing. Other:

7. Inspections. By signing this Agreement, Buyer is representing that the Buyer is aware that professional services are commercially available at a fee by expert(s) selected by Buyer. The Buyer has elected to arrange and pay for services/investigations, including, but not limited to, the following:

- No Inspections Soil Borings Zoning Site Plan Approval Utilities Permitting Other (specify):

The Buyer shall have the right to terminate this Agreement if the due diligence results are not acceptable to the Buyer by giving Seller written notice within _____ calendar days after the Effective Date of this Agreement, otherwise the right to terminate shall be deemed to have been waived.

Buyer agrees that Buyer is not relying on any representation or statement made by Seller or any real estate salesperson (whether made intentionally or negligently) regarding any aspect of the Property or this sale transaction, except as may be expressly set forth in this Agreement, a written amendment to this Agreement, or a disclosure statement separately signed by the Seller. Accordingly, Buyer agrees to accept the Property "as is" and "with all faults" (whether obvious or concealed), except as otherwise expressly provided in the documents specified in the preceding sentence. Other:

8. Closing Adjustments. The following adjustments shall be made between the parties as of the close of business on the closing date, with the Buyer receiving a credit or assuming responsibility, as the case may be, for amounts attributable to time periods following the closing date:

- a. Prepaid rent and Additional Rent (as defined in the paragraph);
- b. Interest on any existing indebtedness assumed by Buyer;
- c. Charges for any transferable service contracts assigned to Buyer described in Exhibit D;
- d. Utility deposits;
- e. Security deposits;
- f. All operating expenses including, but not limited to, CAM, taxes, insurance, plus Additional Rent shall be allocated accurately between the parties pursuant to the leases.

If any tenant is late, delinquent or otherwise in default in the payment of rent on the closing date, Seller shall assign to Buyer the claim for and the right to collect the rent; Buyer shall pay such past due rent to Seller promptly upon receipt, but Buyer shall not be obligated to file suit to collect such rent and shall reassign the claim to Seller on demand. If any tenants are required to pay percentage rent, escalation charges for real estate taxes, operating expenses, cost-of-living adjustments or other charges of a similar nature ('Additional Rent') and any Additional Rent is collected by Buyer after closing attributable in whole or in part to any period prior to closing, Buyer shall promptly pay to Seller Seller's proportionate share of the Additional Rent. Other:

9. Property Taxes. Seller shall pay delinquent property taxes. The current year's property taxes will be paid as follows (choose one):

- No proration:
 - Buyer Seller shall pay taxes billed Summer _____ (year).
 - Buyer Seller shall pay taxes billed Winter _____ (year).
- Calendar Year Proration (all taxes billed or to be billed in the year of closing). Calendar year tax levies will be estimated, if necessary, using taxable value on the day of closing, broken down to a per diem tax payment and prorated to day of closing with Seller paying for January 1 to day of closing.

Special Assessments, and deferred assessments, whether due in installments or otherwise, which are due and payable on or before the Effective Date of this Agreement shall be paid by Seller. All other special assessments, including deferred assessments, for improvements, now installed, not yet installed, or in the process of being installed, that are first due and payable after the Effective Date of this Agreement shall be paid by Buyer. Other:

10. **Conveyance.** Upon performance by Buyer of the closing obligations specified in Section 18 below, Seller shall convey the marketable title to the Property to Buyer by warranty deed or agree to convey marketable title by land contract or assignment, as required by Section 4 above, including oil, gas, and other mineral rights, subject only to existing zoning ordinances, and to building and use restrictions, easements, and reservations of record, if any. As used herein, "marketable title" means marketable title within the meaning of the Michigan 40-Year Marketable Title Act (Mich. Comp. Laws §§ 565.101 et seq.).

The following paragraph applies only if the Property includes unplatted land:

Seller agrees to grant Buyer at closing the right to make (insert number) _____ division(s) under Section 108(2), (3), and (4) of the Michigan Land Division Act. (If no number is inserted, the right to make divisions under the sections referenced above stays with any remainder of the parent parcel retained by Seller. If a number is inserted, Seller retains all available divisions in excess of the number stated; however, Seller and/or REALTOR® do not warrant that the number of divisions stated is actually available.) If this sale will create a new division, Seller's obligations under this Agreement are contingent on Seller's receipt of municipal approval, on or before _____ (date), of the proposed division to create the Property. Other:

11. **Warranties of Buyer.** Except as otherwise provided or acknowledged in this Agreement, Buyer represents and warrants to Seller as follows:

- a. The performance of the obligations of Buyer under this Agreement will not violate any contract indenture, statute, ordinance, judicial or administrative order or judgment applicable to Buyer.
- b. There is no litigation or proceeding pending, or to the Buyer's knowledge threatened, against or involving the Buyer, and the Buyer does not know or have reason to know of any ground for any such litigation or proceeding, which could have an adverse impact on Seller or Seller's interests under this Agreement.
- c. In entering into this Agreement, Buyer has not relied upon any written or verbal representations made by Seller or any representative of Seller, including any real estate salesperson, regarding the Property or any aspect of this transaction, which are not expressly set forth in this Agreement.

Other:

12. **Warranties of Seller.** Except as otherwise provided or acknowledged in this Agreement, Seller represents and warrants to, and agrees with Buyer as follows:

- a. Seller's interest in the Property shall be transferred to Buyer on the closing date, free from liens, encumbrances and claims of others.
- b. The performance of the obligations of Seller under this Agreement will not violate any contract, indenture, statute, ordinance, judicial or administrative order or judgment applicable to Seller or the Property.
- c. There is no litigation or proceeding pending or to the Seller's knowledge threatened, against or involving the Seller or the Property, and the Seller does not know or have reason to know of any ground for any such litigation or proceeding which could have an adverse impact on Buyer or Buyer's title to and use of the Property, before or after closing.
- d. Seller shall continue to operate the Property in the ordinary course of business and maintain the Property in a state of good condition and repair during the interim between the signing of this Agreement and the closing date.
- e. If a statement(s) of income and expense with respect to the operation of the Premises is(are) described in Exhibit B, such statement(s) is(are) accurate for the period(s) designated in the statement(s).
- f. The information concerning written leases and any tenancies not arising out of written leases described in Exhibit C is accurate as of the Effective Date of this Agreement, and there are no leases or tenancies with respect to the Premises other than those described in Exhibit C (the "Leases"). Except as otherwise described in Exhibit C:
 - (1) All of the leases are in full force and effect, no party thereto is in material default thereunder, and none of them have been modified, amended or extended;
 - (2) No renewal or extension options have been granted to tenants;
 - (3) No tenant has an option to purchase the Premises;
 - (4) The rents set forth are being collected on a current basis and there are no arrearages in excess of one month;
 - (5) There are no security deposits, and
 - (6) No real estate brokerage commission will become payable under any existing arrangement upon exercise of any options or other right to extend or renew the term of any lease or purchase of the Premises.
- g. With respect to underlying land contracts or mortgages, the sale will not accelerate indebtedness, increase interest rates, or impose penalties and sanctions.
- h. Seller is without personal knowledge as to the presence on the Property of any toxic or hazardous substances or of any underground storage tanks.
- i. Other:

13. **Sidewalk Inspection.** If Property is in a municipality that requires a sidewalk inspection, Seller shall order the inspection and pay for any repairs deemed necessary by the municipality, so that the Property will be in compliance with any applicable sidewalk ordinance as of the closing date.

14. **Damage to Property.** If between the Effective Date of this Agreement and the closing date, all or any part of the Property is damaged by fire or natural elements or other causes beyond the Seller's control which cannot be repaired prior to the closing date, or any part of the Property is taken pursuant to any power of eminent domain, Seller shall immediately notify Buyer of such occurrence, and either Seller or Buyer may terminate this Agreement by written notice to the other within fifteen (15) days after the date of the damage or taking. If neither elects to terminate this Agreement, there shall be no reduction of the purchase price and at closing Seller shall assign to Buyer whatever rights Seller may have with respect to any insurance proceeds or eminent domain award.

15. **Closing.** The closing shall be held on or before _____, and as promptly as practical after all necessary documents have been prepared. An additional period of thirty (30) days shall be allowed for closing to accommodate delays in title work or the correction of title defects and/or survey problems which can be readily correctable, delays in obtaining any required inspections, surveys or repairs, delays in completing Environmental Site Assessments, Baseline Environmental Assessment or Due Care Plan/Section 7a Compliance Analysis (if such assessments or plans were ordered in a timely manner), or if the terms of purchase require participation of a lender and the lender has issued a commitment consistent with the requirement but is unable to participate in a closing on or before the required date.

16. **Possession.** Seller shall tender to Buyer possession of the Property upon completion of the closing, subject to all existing leases and rights of tenants in possession. Upon Seller's acceptance, or Buyer's acceptance of a counter offer, Buyer shall have the right to enter upon the Property for purposes of inspections and tests; provided, however, that such inspections and testing shall not unreasonably interfere with the rights of tenants in possession and shall not cause physical damage to the Property. Other:

17. **Seller's Closing Obligations.** At closing, Seller shall deliver the following to Buyer:
a. The warranty deed, land contract or assignment of land contract required by Section 4 of this Agreement.
b. A written assignment by Seller of Seller's interest in all leases and a transfer to Buyer of all security deposits, accompanied by the original or a true copy of each lease, as well as a notice to any tenants advising the tenants of the sale and directing that future payments be made to Buyer.
c. An assignment of all Seller's rights under any Service Contracts described in Exhibit D which are assignable by their terms and which Buyer wishes to assume, together with an original or true copy of each Service Contract assigned, subject to Section 12 of this Agreement.
d. Any other documents required by this Agreement to be delivered by Seller.
e. An accounting of operating expenses including, but not limited to, CAM, taxes, insurance, plus Additional Rent, collected in advance or arrears, spent or not yet spent by Seller, showing an accurate allocation between the parties pursuant to the leases.
f. Other:

18. **Buyer's Closing Obligations.** At closing, Buyer shall deliver to Seller the following:
a. The cash portion of the purchase price specified in Section 4 above shall be paid by cashier's check or other immediately available funds, as adjusted by the apportionments and assignments in accordance with this Agreement.
b. A written assumption by Buyer of the obligations of Seller under the leases arising after closing, including an acknowledgment of the receipt of all security deposits.
c. Any other documents required by this Agreement to be delivered by Buyer.

19. **1031 Tax Deferred Exchange.** Upon either party's request, the other party shall cooperate and reasonably assist the requesting party in structuring the purchase and sale contemplated by this Agreement as part of a tax deferred, like-kind exchange under Section 1031 of the Internal Revenue Code of 1986, as amended; provided, however, that in connection therewith, the nonrequesting party shall not be required to (a) incur any additional costs or expenses; (b) take legal title to additional real property (i.e., the requesting party's "replacement property" or "relinquished property"); or (c) agree to delay the closing.

20. **Notices.** Unless otherwise stated in this Agreement, a notice required or permitted by this Agreement shall be sufficient if in writing and either delivered personally or by certified mail or other form of documentable delivery addressed to the parties at their addresses specified in the proximity of their signatures below, and any notices given by mail shall be deemed to have been given as of the date of the postmark.

21. **Additional Acts.** Buyer and Seller agree to execute and deliver such additional documents and to perform such additional acts as may become necessary to effectuate the transfers contemplated by this Agreement.

22. **Entire Agreement.** This Agreement contains the entire agreement of the parties with respect to the sale of the Premises. All contemporaneous or prior negotiations have been merged into this Agreement. This Agreement may be modified or amended only by written instrument signed by the parties to this Agreement. This Agreement shall be governed by and construed in accordance with the laws of the State of Michigan.

For purposes of this Agreement, the phrase "Effective Date of this Agreement" shall be the date upon which this Agreement is fully executed pursuant to Section 32 or 33 below, whichever may apply.

23. **Earnest Money.** Buyer gives _____, REALTOR, _____ days to obtain the written acceptance of this offer and agrees that this offer, when accepted by Seller, will constitute a binding agreement between Buyer and Seller. Buyer shall deposit \$ _____ with REALTOR with this offer; within

_____ after acceptance of this offer; OR upon acceptance of this offer, evidencing Buyer's good faith, to be held by the REALTOR and to apply on the purchase price or the down payment portion thereof where applicable. If this offer is not accepted or the title is not marketable or if the purchase is contingent upon conditions specified which cannot be met, this deposit shall be promptly refunded. If the Buyer defaults, all deposits made may be forfeited as liquidated damages at Seller's election or, alternatively, Seller may retain the deposits as part payment of the purchase price and pursue Seller's legal or equitable remedies against Buyer. If the sale is not closed according to its terms, the selling REALTOR may notify Buyer and Seller of REALTOR'S intended disposition of the earnest money deposit, and all parties shall be deemed to have agreed to the disposition of the earnest money deposit unless REALTOR is notified of a court action pending concerning this sale or disposition of earnest money within sixty (60) days after notice to the parties.

24. **Disclosure of Price and Terms.** The purchase price and the terms of this sale may be disclosed by the Commercial Alliance of REALTORS® in the ordinary conduct of its business. Deletion of this paragraph shall not be considered a counter offer which would require a counter acceptance.

25. **Credit Reports.** Buyer consents that, if not otherwise prohibited, the REALTOR may give Seller information about the Buyer contained in a credit report which may be furnished to the REALTOR by a reporting agency.

26. **Advice of Counsel.** Buyer acknowledges that the REALTOR has recommended that Buyer retain an attorney to pass upon the marketability of title, to ascertain that the terms of the sale are adhered to before the transaction is closed and to advise with respect to the Notice referenced in Paragraph 27 hereof.

Property Address _____
© Copyright Commercial Alliance of REALTORS, 2005
Revision Date 01/2005

Buyer's Initials

Seller's Initials

30. Index of Exhibits.

Not Applicable	Attached	Seller to Furnish	Exhibit	Subject	Attached	Seller to Furnish	Exhibit	Subject
			A	Disclosure Regarding Real Estate Agency Relationships			F	Addendum
			B	Income and expense with respect to the operation of the Premises				
			C	Written leases and any tenancies not arising out of written leases				
			D	Service Contracts				
			E	List of Personal Property				

31. By signing below, Buyer acknowledges having read and received a copy of this Agreement.

Witness: _____ Entity: _____
 Buyer's Address: _____ By: _____
 _____ (Note: Please sign as you wish your name to appear on the final papers.)
 Printed name of Signatory: _____
 Its: _____
 Buyer(s) Social Security Number(s) or Federal ID Number: _____ Bus. Phone: _____ Fax: _____
 _____ E-Mail: _____

SELLER'S ACCEPTANCE

Date: _____, _____ (time)

32. The above offer is hereby accepted:

By signing below, Seller acknowledges having read and received a copy of this Agreement. If Agreement is signed by Seller without any modification, this becomes the Effective Date of this Agreement.

Seller gives REALTOR above named until _____ (time) _____ (date), to obtain Buyer's written acceptance of counter offer, if any.

Witness: _____ Entity: _____
 Seller's Address: _____ By: _____
 _____ (Note: Please sign as you wish your name to appear on the final papers.)
 Printed name of Signatory: _____
 Its: _____
 Seller(s) Social Security Number(s) or Federal ID Number: _____ Bus. Phone: _____ Fax: _____
 _____ E-Mail: _____

BUYER'S RECEIPT OF ACCEPTANCE

Date: _____, _____ (time)

33. Buyer acknowledges receipt of Seller's acceptance of Buyer's offer. If the acceptance was subject to changes from Buyer's offer, the Buyer agrees to accept those changes, all other terms and conditions remaining unchanged. If this Agreement is signed by Buyer without any modification, this becomes the Effective Date of this Agreement.

Witness: _____ Buyer: _____

SELLER'S RECEIPT OF ACCEPTANCE

Date: _____, _____ (time)

34. Seller acknowledges receipt of a copy of the Buyer's acceptance of the counter-offer (if Seller made a counter-offer).

Witness: _____ Seller: _____