

GAINESVILLE-ALACHUA COUNTY ASSOCIATION OF REALTORS® , INC

**Deposit Receipt and Purchase and Sale Agreement
Vacant Land**

1. **PARTIES:** _____ (“SELLER”)
and _____ (“BUYER”)

hereby agree that SELLER shall sell and BUYER shall buy the following described real property and personal property (collectively “Property”) pursuant to the terms and conditions of this Deposit Receipt and Purchase and Sale Agreement and any riders and addenda (“Agreement”)

2. **DESCRIPTION:**

A. Legal description of the Property located in _____ County, Florida: _____

B. Street address, city, zip of the Property: _____

C. Personal property includes existing: _____

Other items included are: _____

D. Items of real and/or personal property affixed (and leased items, if any) excluded are: _____

3. **PURCHASE PRICE** (“Purchase Price”): \$ _____

Payable as follows:

A. Deposit held in escrow, (“Deposit”), by _____ (Escrow Agent)

in the amount of:..... \$ _____

B. Additional Deposit to be made to _____
Within _____ (_____) days after Effective Date: \$ _____

C. Financing in the amount of: \$ _____

D. Other: \$ _____

E. Balance payable (Cash at Closing (US cash, wire transfer, certified or cashiers check)) \$ _____

F. (complete only if purchase price will be determined based on a per unit cost instead of a fixed price) The unit used to determine the purchase price is lot acre square foot other (specify: _____)
The Purchase Price is based upon a sale of _____ units at \$_____ per unit or fraction thereof. The Purchase Price shall be adjusted based upon the total number of units, or fractional units, multiplied by the per unit Purchase Price. The total number of units, or fractional units, shall be as certified to BUYER and SELLER by a Florida-licensed surveyor in accordance with Paragraph 22A of this Agreement.

TOTAL PURCHASE PRICE: \$ _____

4. **ADDITIONAL TERMS AND CONDITIONS:**

BUYER (____) (____) (____) and SELLER (____) (____) (____) acknowledge receipt of this page, which is Page 1 of 8

5. **RIDERS/ADDENDA:** Additional riders are attached to this Agreement and are made a part hereof: (CHECK those riders which are applicable)

- | | | |
|---|--|--------------------------------|
| <input type="checkbox"/> Homeowners Assn. Community Disclosure Form | <input type="checkbox"/> Comprehensive Rider Addenda | <input type="checkbox"/> AS-IS |
| <input type="checkbox"/> Lead-Based Paint | <input type="checkbox"/> Assumption of Existing Mortgage | |
| <input type="checkbox"/> FHA/VA | <input type="checkbox"/> Addenda | |

6. **CLOSING DATE/TIME OF POSSESSION:** This transaction shall be closed and the deed and other closing papers delivered on _____ or such earlier date as may be mutually agreed upon, unless extended by other provisions of this Agreement, ("Closing"). If BUYER is unable to obtain Hazard, Wind, Flood or Homeowner's insurance because insurance underwriting has been suspended, BUYER may delay Closing for up to five (5) days from the scheduled closing date to obtain such coverage. If coverage is still unavailable, either party may elect to terminate this Agreement. BUYER shall use all reasonable efforts to obtain insurance coverage. BUYER shall take possession at the date and time of Closing unless otherwise stipulated in this Agreement or an addendum to this Agreement. If this transaction fails to close for any reason, BUYER will immediately return to SELLER all SELLER-provided documents.

7. **TIME FOR ACCEPTANCE/FACSIMILE/EFFECTIVE DATE:** If this Agreement is not executed by and delivered to all parties hereto, OR FACT OF EXECUTION communicated in writing between the parties, on or before _____, the aforesaid Deposit(s) shall, at the option of the BUYER, be returned to BUYER and this offer shall be considered withdrawn. A facsimile copy of this Agreement and any signatures thereon shall be considered for all purposes as originals. **UNLESS OTHERWISE STATED, THE TIME FOR ACCEPTANCE OF ANY COUNTEROFFERS SHALL BE TWO (2) DAYS FROM THE DATE THE COUNTEROFFER IS DELIVERED.** The date of this Agreement ("Effective Date") will be the date when the last one of the BUYER and SELLER has signed or initialed this offer, or the final counteroffer, and this offer, or the final counteroffer, has been delivered to all parties, OR FACT OF EXECUTION has been communicated in writing between the parties.

8. **FINANCING:**

- A. **Cash:** This is a cash transaction with no contingencies for financing.
- B. **New Financing:** This Agreement is contingent upon BUYER obtaining approval of a loan, ("Loan Approval") within _____ (_____) days after the Effective Date ("Loan Approval Date") for (Check one only) a or an fixed; adjustable; or fixed-adjustable rate loan, in the principal amount of _____ Dollars (\$_____), at an initial interest rate not to exceed _____ percent (_____%) and for a term of _____ (_____) years. BUYER will make application within _____ (_____) days after the Effective Date and shall use reasonable diligence to obtain Loan Approval. For purposes of this provision, "reasonable diligence" shall include, but not necessarily be limited to, performing the following in a timely manner: Making application for the loan, paying all application fees and appraisal fees upon request, providing all requested financial information and copies of tax returns, providing verification of deposits and employment, together with copies of pay stubs if requested, and providing such other information as may be reasonably requested by the lender. BUYER further agrees to satisfy all terms and conditions of the Loan Approval, pay all loan-related costs and fees and close on the loan. Loan Approval which requires a condition related to the sale of other property shall not be deemed Loan Approval for purposes of this subparagraph. If BUYER has used reasonable diligence and has not obtained Loan Approval, BUYER shall be refunded all Deposits, provided BUYER, by no later than the Loan Approval Date, provides written notice to SELLER that BUYER has not obtained Loan Approval and has elected to terminate this Agreement. If BUYER has not terminated this Agreement by the Loan Approval Date as provided herein, BUYER will be deemed to have received Loan Approval and this contingency shall be waived. This Agreement shall remain subject to the satisfaction, by Closing, of those conditions of Loan Approval related to the Property, including survey and title commitment requirements. BUYER authorizes mortgage broker(s) and lender(s) to disclose to SELLER, real estate licensee(s) and closing agent(s) information regarding status of the loan application and Loan Approval. **WITH REGARD TO THIS PROVISION OF THIS AGREEMENT ONLY, TIME SHALL BE OF THE ESSENCE.**

BUYER (____) (____) (____) and SELLER (____) (____) (____) acknowledge receipt of this page, which is Page 2 of 8

C. **Purchase Money Note and Mortgage to SELLER:** It is understood and agreed by the parties hereto that the BUYER will give and the SELLER will take back a purchase money, (first, second, etc.), mortgage encumbering the Property, securing the repayment of a promissory note payable to the SELLER, in the amount of _____ Dollars (\$ _____), bearing interest at the rate of _____ percent (_____%) per annum, for a term of _____ (_____) years, said mortgage to be amortized by monthly payments of principal and interest in the approximate amount of _____ Dollars (\$ _____), with the first such payment becoming due and payable thirty (30) days after Closing, and with subsequent payments due on the same day of each month thereafter until all sums due under the promissory note have been paid in full. All such payments shall be credited first to accrued interest and the balance to principal.

The purchase money note and mortgage shall provide for a thirty (30) day grace period in the event of default if it is a first mortgage and a fifteen (15) day grace period if it is a second mortgage, shall provide for right of prepayment in whole or in part without penalty, and shall be otherwise in form and content in accordance with covenants established by the Eighth Judicial Circuit Bar Association. Said note and mortgage shall provide that in the event any installment is more than fifteen (15) days delinquent, the holder may assess a late charge of five percent (5%) of the late installment payment, or ten dollars (\$10.00) whichever is greater, which late payment shall be due with the late installment payment, and in any event, shall be due no later than the due date of the next installment payment. Failure to pay the late charge when due shall constitute a default under the promissory note and mortgage. Said mortgage shall require all prior liens and encumbrances to be kept in good standing and shall forbid modifications of or future advances under prior mortgage(s).

The purchase money mortgage and note: (CHECK one)

- shall be fully assumable
- shall not be assumable, directly or indirectly, and shall include a standard "due on sale" clause prohibiting sale or transfer other than by descent and distribution in case of death, or for a lease of three years or less and which does not contain an option to purchase
- shall be assumable on these conditions: _____

BUYER authorizes SELLER to obtain credit, employment and other necessary information to determine, in the sole discretion of the SELLER, the creditworthiness of the BUYER for the financing being offered by the SELLER. Within _____ (_____) days from the Effective Date, SELLER will give BUYER written notice if SELLER is unwilling to take back purchase money financing, in which event this Agreement shall terminate, with all Deposits being refunded to BUYER and both parties thereafter being relieved of further obligations hereunder.

9. **EVIDENCE OF TITLE:** SELLER, at SELLER's expense, shall provide an American Land Title Association, ("ALTA"), Owner's Title Insurance Commitment, ("Title Commitment"), and title insurance policy in the amount of the Purchase Price. If BUYER is required to furnish a mortgagee title insurance policy, SELLER agrees that SELLER's title agent will offer BUYER the option of obtaining a simultaneous issue mortgagee policy through the SELLER's title agent at BUYER's expense.

Title evidence to be furnished within: (CHECK one)

- _____ (_____) days from the Effective Date of this Agreement or
- _____ (_____) days prior to Closing

10. **EXAMINATION OF TITLE:** The Title Commitment shall be issued by a Florida licensed title insurer agreeing to issue to BUYER, upon recording of the deed, an owner's policy of title insurance in the amount of the Purchase Price, insuring BUYER's marketable title to the real property, subject only to the matters contained in Paragraph 16 and those to be discharged by SELLER at or before Closing. Marketable title shall be determined according to applicable title standards adopted by authority of the Florida Bar and in accordance with law. BUYER shall have five (5) days from date of receiving the Title Commitment to examine it, and if title is found defective, notify SELLER in writing specifying the defect(s), which renders title unmarketable. SELLER shall have _____ (_____) days from receipt of notice to remove the defect(s), (the "Cure Period"), failing which BUYER shall, within five (5) days after expiration of said Cure Period, deliver written notice to SELLER either: (A) extending the Cure Period; (B) waiving the defect(s); or (C) requesting a refund of the Deposit(s) paid which shall be returned to BUYER, thereby releasing BUYER and SELLER from all further obligations under this Agreement. If BUYER fails to so notify SELLER, BUYER shall be deemed to have accepted the title in its existing condition. SELLER shall use diligent efforts to correct defect(s) within the Cure Period. Reasonable diligence will not include the requirement of SELLER to bring an action at law or equity to cure said defect(s). Upon the defect(s) being cured and notice of that fact being delivered to BUYER or BUYER's agent, this transaction shall then be closed within ten (10) days of the delivery of the notice. If SELLER delivers the Title Commitment to BUYER less than five (5) days prior to Closing, BUYER may extend Closing so that BUYER shall have up to five (5) days from date of receipt to examine same in accordance with this provision.

BUYER (____) (____) (____) and SELLER (____) (____) (____) acknowledge receipt of this page, which is Page 3 of 8

11. **EXPENSES**

SELLER shall pay for the following expenses:

- A. Real estate sale commissions
- B. State documentary stamps to be affixed to deed
- C. Preparation of instruments required of SELLER
- D. Owner's title insurance and related fees
- E. SELLER's attorney fee
- F. _____
- G. _____

BUYER shall pay for the following expenses:

- A. Recording fee to record deed.
- B. All expenses relative to all notes and mortgages, or a contract for deed, including preparation, recording, documentary stamps, intangible tax & mortgagee title insurance.
- C. Transfer fees of owner's associations and transfer fees of existing mortgagee(s) if any
- D. Survey, if any
- E. Wood Destroying Organism Inspection
- F. BUYER's attorney fee
- G. Inspection(s), if any
- H. _____

12. **LAND USE:** SELLER will deliver the Property to BUYER at the time agreed in its present "as is" condition, with conditions resulting from Buyer's inspections and casualty damage, if any, excepted. SELLER will maintain the landscaping and grounds in a comparable condition and will not engage in or permit any activity that would materially alter the Property's condition without the BUYER's prior written consent.

A. Government Regulation: BUYER is advised that changes in government regulations and levels of service which affect BUYER's intended use of the Property will not be grounds for canceling this Agreement if the Feasibility Study Period has expired or if BUYER has checked choice (B)(2) below.

B. Inspections: (check (1) or (2) below)

(1) Feasibility Study: BUYER will, at BUYER's expense and within _____ days from Effective Date ("Feasibility Study Period"), determine whether the Property is suitable, in BUYER's sole and absolute discretion, for _____ use. During the Feasibility Study Period, BUYER may conduct a Phase I environmental assessment and any other tests, analyses, surveys and investigations ("Inspections") that BUYER deems necessary to determine to BUYER's sole satisfaction the Property's engineering, architectural and environmental properties; zoning and zoning restrictions; subdivision statutes; soil and grade; availability of access to public roads, water, and other utilities; consistent with local, state and regional growth management plans; availability of permits, government approvals, and licenses; and other Inspections that BUYER deems appropriate to determine the Property's suitability for the BUYER's intended use. SELLER does not authorize BUYER to have the Property rezoned. SELLER agrees to cooperate with BUYER to have the Property rezoned to a zoning classification acceptable to both parties. If the parties can not agree upon an acceptable zoning classification, than either party may terminate this Agreement and BUYER's Deposit(s) will be returned. If SELLER agrees that Property must be rezoned BUYER will obtain the rezoning from the appropriate government agencies. SELLER will sign all documents BUYER is required to file in connection with the development or rezoning approvals. SELLER will not be responsible for any fees or costs incurred in connection with the actions undertaken by the BUYER.

SELLER gives BUYER, its agents, contractors and assigns, the right to enter the Property at any time during the Feasibility Study Period for the purpose of conducting Inspections; provided, however, that BUYER, its agents, contractors and assigns enter the Property and conduct Inspections at their own risk. BUYER will indemnify and hold SELLER harmless from losses, damages, costs, claims and expenses of any nature, including attorneys' fees, expenses and liability incurred in application for rezoning or related proceedings, and from liability to any person, arising from the conduct of any and all Inspections or any work authorized by BUYER. BUYER will not engage in any activity that could result in a construction lien being filed against the Property without SELLER's prior written consent. If this transaction does not close, BUYER will, at BUYER's expense, (1) repair all damages to the Property resulting from the Inspections and return the Property to the condition it was in prior to conduct of the Inspections, and (2) release to SELLER all reports and other work generated as a result of the Inspections. BUYER will deliver written notice to SELLER prior to the expiration of the Feasibility Study Period of BUYER's determination of whether or not the Property is acceptable. BUYER's failure to comply with this notice requirement will constitute acceptance of the Property as suitable for BUYER's intended use in it's "As Is" condition. If the Property is unacceptable to BUYER and written notice of this fact is timely delivered to SELLER, this Agreement will be deemed terminated as of the date of the BUYER's notice and BUYER's Deposit(s) will be returned. This provision shall survive the closing.

(2) No Feasibility Study: BUYER is satisfied that the Property is suitable for BUYER's purposes including being satisfied that either public sewer and water are available to the Property or the Property will be approved for the installation of a well and/or private sewer disposal system and that existing zoning and other pertinent regulations and restrictions, such as subdivision or deed restrictions, concurrency, growth management and environmental conditions, are acceptable to BUYER. This Agreement is not contingent on BUYER's conducting any further investigations, and BUYER agrees to accept the Property and all improvements thereon in "As Is" condition.

13. **RISK OF LOSS, CONDEMNATION, AND CASUALTY:**

- A. All risk of condemnation and the risk of loss, damage or destruction of the Property prior to Closing shall be the responsibility of the SELLER.
- B. If, after the Effective Date hereof and prior to the Closing all or a part of the Property is subjected to a bona fide threat of condemnation by a body having the power of eminent domain or is taken by eminent domain or condemnation (or sale in lieu

BUYER (____) (____) (____) and SELLER (____) (____) (____) acknowledge receipt of this page, which is Page 4 of 8

thereof), or all or a part to the Property is damaged or destroyed by any cause, or any environmental contamination shall take place, SELLER shall immediately notify BUYER in writing and BUYER shall have 10 days to give written notice to SELLER electing to cancel this Agreement prior to the Closing hereunder. In this event both parties shall be relieved and released from any and all further liability hereunder, the Deposit shall forthwith be returned to BUYER by the Escrow Agent, and thereupon this Agreement shall be terminated. If no such election is made, this Agreement shall remain in full force and effect and the sale and purchase contemplated herein, less any interest taken by eminent domain or condemnation, shall be effected with no further adjustment. Upon the Closing, SELLER shall assign, transfer, and set over to BUYER all of the right, title and interest of SELLER in and to any awards that have been or that may thereafter be made for such taking or in the event of damage or destruction, SELLER shall assign, transfer and set over to BUYER any sums of insurance money paid or payable for any damages or destruction together with the amount of any deductibles.

14. **RESTRICTIONS, EASEMENTS AND LIMITATIONS:** BUYER shall take title subject to: the standard exceptions contained in an ALTA title insurance policy, comprehensive land use plans, zoning, restrictions, prohibitions and other requirements imposed by governmental authority, restrictions and matters appearing on the plat or otherwise common to the subdivision, outstanding oil, gas and mineral rights of record without right of entry, public utility easements of record, taxes for the year of closing and subsequent years, assumed mortgage(s) and purchase money mortgages, if any, other: _____ provided, however, that there exists at Closing no violation of the foregoing and that the foregoing do not affect the marketability of title, and they do not prevent the use of the Property for _____ purpose(s).

15. **UTILITIES:** SELLER represents that Property is served by: (CHECK if applicable)
 Central Water System Central Wastewater System None of the Foregoing
 Well Septic Tank

16. **CONVEYANCE:** SELLER shall convey title to the Property by statutory warranty, trustee, personal representative or guardian deed, as appropriate to the status of SELLER, free and clear of all encumbrances and liens of whatsoever nature, except taxes for the current year, and except as herein otherwise provided. SELLER shall also deliver to BUYER a lien and possession affidavit at Closing, sufficient to remove lien and possession exceptions from the title insurance policy. If SELLER is a "foreign person" as defined by the Foreign Investment in Real Property Tax Act, ("FIRPTA"), the parties shall comply with FIRPTA. The parties shall comply with the provisions of FIRPTA and applicable regulations which could require SELLER to provide additional cash at Closing to meet withholding requirements, and a FIRPTA Rider or equivalent may be attached to this Agreement. Conveyance of title shall be to: _____

17. **FLOOD ZONE REPRESENTATION:** Some flood zones designate that the Property may be subject to more than a minimal risk of flooding. If BUYER produces evidence not less than five (5) days prior to Closing that the improvements, (or the effective buildable area of unimproved Property), is in a flood zone which carries a greater risk of flooding than as defined by Flood Zone "C", the BUYER shall have the option to declare this Agreement terminated and shall thereupon be entitled to a refund of all deposits. Should BUYER close on the Property without obtaining evidence of flood zone status, BUYER shall be deemed to have waived all objections as to the flood zone status of the Property. **BUYER should not rely on flood zone status as determined by a pre-existing survey.**

18. **SPECIAL ASSESSMENTS:**
 A. **Public Bodies:** Property is: (CHECK one) not subject to subject to a special assessment lien imposed by a public body payable in installments which continue beyond Closing and, if so, specify who shall pay amounts due after Closing: (CHECK one) SELLER BUYER Other (see addendum)

Unless as otherwise set forth herein, certified special assessment liens imposed by public bodies in existence as of Closing are to be paid by SELLER. Pending or proposed special assessments liens as of Closing shall be assumed by BUYER. If the improvement has been substantially completed as of the Effective Date, any pending or proposed special assessment lien shall be considered certified and SELLER shall, at Closing, be charged an amount equal to the last estimate or assessment for the improvement by the public body. A certified special assessment lien is one that has been formally adopted by ordinance or otherwise by the governmental authority creating the special assessment that creates a lien therefore.

B. **Homeowner/Condominium Association:** Property is: (CHECK one) not subject to subject to a special assessment lien imposed by a Homeowner/Condominium Association, payable in installments which continue beyond Closing and if so, specify who shall pay amounts due after Closing: (CHECK one) SELLER BUYER Other (see addendum)

19. **DISCLOSURES:**
 A. **BUYER(S):** (CHECK one) acknowledges does not acknowledge receipt of brokerage relationship disclosure
BUYER'S INITIALS: _____
 B. **Closing Costs:** Upon closing of the Property, SELLER and/or BUYER may be required to pay closing costs such as, but not limited to: Document preparation fees, attorney's fees, title insurance, taxes, escrow fees, documentary stamp and intangible taxes, recording fees, discount points, survey charges, WDO inspection fees, mortgage transfer fees and other such costs assumed by the SELLER and/or BUYER.
 C. **Property Tax Disclosure Summary:** BUYER SHOULD NOT RELY ON THE SELLER'S CURRENT PROPERTY TAXES AS THE AMOUNT OF PROPERTY TAXES THAT THE BUYER MAY BE OBLIGATED TO PAY IN THE YEAR SUBSEQUENT TO

BUYER (____) (____) (____) and SELLER (____) (____) (____) acknowledge receipt of this page, which is Page 5 of 8

PURCHASE. A CHANGE OF OWNERSHIP OR PROPERTY IMPROVEMENTS TRIGGERS REASSESSMENTS OF THE PROPERTY THAT COULD RESULT IN HIGHER PROPERTY TAXES. IF YOU HAVE ANY QUESTIONS CONCERNING VALUATION, CONTACT THE COUNTY PROPERTY APPRAISER'S OFFICE FOR INFORMATION.

- D. **Condominium Disclosure:** If BUYER will be obligated to be a member of a Condominium Association, BUYER SHOULD NOT EXECUTE THIS AGREEMENT UNTIL BUYER HAS RECEIVED AND READ THE CONDOMINIUM ASSOCIATION RIDER.
- E. **Homeowner's Association/Community Disclosure:** If BUYER will be obligated to be a member of a homeowner association, BUYER SHOULD NOT EXECUTE THIS AGREEMENT UNTIL BUYER HAS RECEIVED AND READ THE HOMEOWNERS ASSOCIATION/COMMUNITY DISCLOSURE.
- F. **Energy Efficiency Rating System:** BUYER acknowledges receipt of the Florida Energy-Efficiency Rating Information Brochure required by Section 553.996 F.S., if applicable.
- G. **Lead-Based Paint:** If the Property includes pre-1978 residential housing then a lead-based paint rider is mandatory.
- H. **Mold:** Mold is naturally occurring and may cause health risks or damage to property. If BUYER is concerned or desires additional information regarding mold, BUYER should contact an appropriate professional.
- I. **Radon Gas:** Radon is a naturally occurring radioactive gas that when accumulated in a building in sufficient quantities may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon or radon testing may be obtained from your County Public Health Unit.

20. **TYPEWRITTEN OR HANDWRITTEN PROVISIONS:** Typewritten or handwritten provisions, riders and addenda shall control all printed provisions of this Agreement in conflict with them.

21. **ASSIGNABILITY:** BUYER (CHECK one)

- May assign this Agreement and thereby be released from any further liability under this Agreement
- May assign this Agreement but not be released from liability under this Agreement
- May not assign this Agreement

22. **STANDARDS FOR REAL ESTATE TRANSACTIONS**

- A. **SURVEY:** BUYER, at BUYER's expense, may have the Property surveyed by a registered Florida surveyor and the survey certified and delivered to BUYER not less than five (5) days prior to Closing. If the survey discloses encroachments on the Property or that improvements located thereon encroach on setback lines, easements, lands of others or violate any restrictions, contract covenants or applicable governmental regulations, the same shall constitute title defects to be corrected by SELLER as required under Paragraph 10 of this Agreement. BUYER shall notify SELLER in writing specifying the defects reflected by the survey and shall simultaneously deliver a copy of the survey to the SELLER. SELLER shall undertake the required steps to cure such defects within the Cure Period as defined in Paragraph 10 hereof. SELLER agrees to provide BUYER with copies of existing surveys SELLER has, if any, within five (5) days from the Effective Date. If any part of the Property lies seaward of the coastal construction control line, SELLER will provide BUYER with an affidavit or survey as required by law delineating the line's location on the property, unless BUYER waives this requirement in writing.
- B. **PRORATIONS:** All taxes for the current year, rents, insurance premiums, association assessments and interest on existing mortgages to be assumed (if any) shall be prorated as of Closing with BUYER paying for the day of Closing. If part of the Purchase Price is to be evidenced by the assumption of a mortgage requiring deposit of funds in escrow for payment of taxes, insurance or other charges, BUYER agrees to reimburse SELLER for escrowed funds assigned to BUYER at Closing. All mortgage payments shall be current at the time of Closing. If Closing occurs at a date when the current year's millage is not fixed and the current year's assessment is available, taxes will be prorated based upon such assessment using the prior year's millage rate. A tax proration based on an estimate shall, at the request of either party, be readjusted upon receipt of the tax bill. This provision shall survive Closing.
- C. **WARRANTIES:** SELLER warrants that there are no facts or defects known to SELLER materially affecting the value of the Property which are not readily observable by BUYER or which have not been disclosed to BUYER in writing.
- D. **ESCROW:** Any escrow agent, ("Agent"), receiving funds or equivalent is authorized and agrees by acceptance of them, to deposit them promptly, hold same in escrow, and subject to clearance, disburse them in accordance with the terms and conditions of this Agreement. At SELLER's option, failure of clearance of funds shall be considered a default. If in doubt as to the Agent's duties or liabilities under the provisions of this Agreement, Agent may, at Agent's option, continue to hold the subject matter of the escrow until the parties mutually agree to its disbursement or until a judgment of a court of competent jurisdiction shall determine the rights of the parties; or Agent may deposit said escrowed funds with the clerk of the circuit court having jurisdiction of the dispute. Upon notifying all parties concerned of such action, all liability of the Agent shall fully terminate, except to the extent of accounting for any items previously delivered out of escrow. If Agent is a licensed real estate broker, Agent will comply with provisions of Chapter 475, F.S. (1987), as amended. Any suit between BUYER and SELLER where Agent is made a party because of acting as Agent hereunder, or in any suit wherein Agent interpleads the subject matter of the escrow, Agent shall recover reasonable attorney's fees and costs incurred, with the fees and costs to be charged and assessed as court costs in favor of the prevailing party. The parties agree that the Agent shall not be liable to any party or person for misdelivery to BUYER or SELLER of items subject to this escrow, unless such misdelivery is due to willful breach of this Agreement or the gross negligence of Agent.

BUYER (____) (____) (____) and SELLER (____) (____) (____) acknowledge receipt of this page, which is Page 6 of 8

- E. **DISBURSEMENT OF CLOSING PROCEEDS:** Disbursement of closing proceeds shall be made as soon after Closing as final title certification and examination have been made, but which shall be no later than five (5) business days after Closing.
- F. **FAILURE OF PERFORMANCE:** If BUYER fails to perform this Agreement within the time specified, (including payment of all Deposits hereunder), the Deposit(s) paid by BUYER may be retained by or for the account of SELLER as agreed upon liquidated damages, consideration for the execution of this Agreement and in full settlement of any claims whereupon BUYER and SELLER shall be relieved of all obligations under this Agreement; or SELLER, at SELLER's option, may proceed in equity to enforce SELLER's rights under this Agreement. If, for any reason other than failure of SELLER to make SELLER's title marketable after diligent effort, SELLER fails, neglects or refuses to perform this Agreement, BUYER may seek specific performance or elect to receive the return of BUYER's Deposit(s) without thereby waiving any action for damages resulting from SELLER's breach.
- G. **OTHER AGREEMENTS:** No prior or present agreements or representations shall be binding upon BUYER or SELLER unless included in this Agreement. No modification to or change in this Agreement shall be valid or binding upon the parties unless in writing and executed by the parties intended to be bound by it.
- H. **NOTICES AND RECORDINGS:** This Agreement shall bind and run to the benefit of the parties and their successors in interest. Whenever the context permits, singular shall include plural and one gender shall include all. All notices must be in writing and may be made by mail, personal delivery or electronic media. A legible facsimile copy of this Agreement and any signatures thereon shall be considered for all purposes as an original. Neither this Agreement nor any notice of it shall be recorded in any public records.
- I. **ATTORNEY'S FEES/COSTS:** In any litigation arising out of this Agreement, the prevailing party in such litigation, which, for purposes of this Standard, shall include SELLER, BUYER, AGENT and any real estate brokers acting in agency or non-agency relationships authorized by Chapter 475, F.S., as amended, shall be entitled to recover from the non-prevailing party reasonable attorney's fees, costs and expenses, including reasonable attorney's fees, costs and expenses incurred in any appeal.
- J. **LEGAL ACCESS:** SELLER warrants and represents that there is insurable legal access to the Property sufficient for the intended use as described herein.
- K. **TIME:** Time periods herein of less than six (6) days shall, in the computation, exclude Saturdays, Sundays and state or national legal holidays, and any time period provided for herein which shall end on a Saturday, Sunday, or legal holiday shall extend to 5:00 p.m. of the next business day. Failure of any party to perform any covenant of this Agreement within the time limits set forth for performance of such covenant shall not be considered a material breach excusing performance unless such failure results in a material loss to the aggrieved party.
- L. **LEASES:** If the Property or any portion thereof is leased, SELLER shall, within the Feasibility Study Period, furnish to BUYER copies of all written leases and estoppel letters from each tenant specifying the nature and duration of the tenant's occupancy, the rental rates and advanced rent and security deposits paid by a tenant. If SELLER is unable to obtain such letter from each tenant, the same information shall be furnished by SELLER to BUYER in writing within that time period in the form of a seller's affidavit and BUYER may thereafter contact tenants to confirm such information. If the terms of the lease(s) differ materially from SELLER's representations, BUYER may terminate this Agreement by delivering written notice to SELLER within three (3) days of receipt of the leases, estoppel letter(s) and information. SELLER shall, at Closing, deliver and assign all original leases to BUYER.
- M. **IMPACT FEES:** BUYER acknowledges that BUYER shall be responsible for all water and wastewater flow base, connection charges and impact fees, if any, associated with BUYER placing any improvements on the Property.
- N. **EXCHANGE:** If either SELLER or BUYER wish to enter into a like-kind exchange, (either simultaneous with Closing or deferred), with respect to the Property under Section 1031 of the Internal Revenue Code, ("Exchange"), the other party shall cooperate in all reasonable respects to effectuate the Exchange, including the execution of documents, provided; (1) the cooperating party shall incur no liability or expense related to the Exchange, and (2) the Closing shall not be contingent upon, nor extended or delayed by such Exchange.
- O. **CONTINUING OBLIGATION FOR CLOSING COSTS:** BUYER and SELLER agree that they shall be responsible for payment of, or reimbursement of any and all costs incurred by or on behalf of said party in connection with the Closing, whether or not Closing occurs. Such costs may include but are not limited to: Inspection fees, title search fees, any and all loan-related costs including survey and appraisal fees. Failure of a party to pay for or to reimburse any such costs shall constitute a default under this Agreement, entitling the other party and/or the agent acting on behalf of the defaulting party to seek recovery of such costs together with all costs incurred in such actions, including reasonable attorney's fee. This provision shall survive a termination of this Agreement.

BUYER (____) (____) (____) and SELLER (____) (____) (____) acknowledge receipt of this page, which is Page 7 of 8

