**REAL ESTATE PURCHASE AGREEMENT**

This Real Estate Purchase Agreement (Agreement) is made on **[date]** (Effective Date), by and between **[name of seller]** (Seller), whose address is **[address]**, and **[name of purchaser]** (Purchaser), whose address is **[address]**.

For valuable consideration received, the parties agree as follows:

1. *Agreement for Purchase and Sale.* Seller shall sell, transfer, and convey to Purchaser, and Purchaser shall purchase from Seller, subject to, and on the terms and conditions set forth in this Agreement, the following (collectively, the “Property”):

(a) Certain land situated in the \_\_\_\_\_\_\_\_ of \_\_\_\_\_\_\_\_, **[county]**, Michigan, and more particularly described in attached Exhibit A (Land), together with the buildings and all other improvements of every kind and nature, all fixtures of every kind and nature located in or on the Land or the Buildings, or any such improvements and all appurtenances and hereditaments to the Land (collectively, the “Improvements”), being commonly known as \_\_\_\_\_\_\_\_, Michigan

(b) All of Seller’s rights, title, and interest in and to all plans, specifications, drawings, and other architectural or engineering data relating to the Property (collectively, the “Plans”)

(c) All warranties, guaranties, sureties, and indemnifications received by or inuring to the benefit of Seller in connection with the ownership, improvement, alteration, repair, restoration, replacement, maintenance, operation, or use of the Property or any portion of it (collectively, the “Warranties”)

(d) All other claims and causes of action of Seller relating to the design, construction, maintenance, repair, restoration, replacement, improvement, use, damage, or destruction of the Property or any portion of it

2. *Purchase Price.* The purchase price for the Property (Purchase Price) shall be $**[amount]**, payable in cash at the Closing (defined in Paragraph 7).

3. *Condition of Property.*

(a) Purchaser acknowledges that, except as otherwise set forth in this Agreement or in any of the Closing documents, Seller has not made, does not make, and specifically negates and disclaims any and all representations, warranties, promises, covenants, agreements, or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past, present or future, of, as to, concerning, or with respect to (i) the value, nature, quality, or condition of the Property, including, without limitation, the water, soil, and geology or structural elements, or foundations; (ii) the suitability of the Property for any or all of Purchaser’s activities and uses; (iii) the compliance of or by the Property with any laws, codes, roles, ordinances, regulations, orders, decrees, or other requirement of any applicable governmental authority or body (collectively, the “Laws”), including, without limitation, compliance with any applicable zoning ordinance; (iv) the habitability, marketability, profitability, or fitness for a particular purpose of the Property; (v) existence in, on, under, or over the Property of any Hazardous Materials (defined below); or (vi) any other matter with respect to the Property. Additionally, no person acting on behalf of Seller is authorized to make, and by execution of this Agreement Purchaser acknowledges that no person has made, any representation, agreement, statement, warranty, guaranty, or promise regarding the Property, and no representation, warranty, agreement, guaranty, statement, or promise, if any, made by any person acting on behalf of Seller shall be valid or binding on Seller unless expressly set forth in this Agreement or in any of the Closing documents. “Hazardous Materials” means any substance that is or contains (A) any “hazardous substance” as now or hereafter defined in §101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended (42 USC 9601 et seq.), or any regulations promulgated under CERCLA; (B) any “hazardous waste” as now or hereafter defined in the Resource Conservation and Recovery Act (RCRA) (42 USC 6901 et seq.) or regulations promulgated under RCRA; (C) any substance regulated by the Toxic Substances Control Act (TSCA) (15 USC 2601 et seq.); (D) gasoline, diesel fuel, or other petroleum hydrocarbons; (E) asbestos and asbestos-containing materials in any form, whether friable or nonfriable; (F) polychlorinated biphenyls; (G) radon gas; and (H) any additional substances or materials that are now or hereafter classified or considered to be hazardous or toxic under any Laws.

(b) Purchaser further acknowledges that having been given the opportunity to inspect the Property, Purchaser is relying solely on its own investigation of the Property and not on any information provided or to be provided by Seller and agrees to accept the Property and waive all objections or claims against Seller arising from or related to the Property or to any Hazardous Materials on the Property except for a breach of any representations or warranties set forth in this Agreement or any of the Closing documents. Purchaser further acknowledges that any information provided or to be provided with respect to the Property was obtained from a variety of sources and that Seller has not made any independent investigation or verification of the information and makes no representations as to the accuracy, truthfulness, or completeness of the information.

(c) This Paragraph 3 shall survive the Closing for a period of 30 years.

4. *Prorations.* Any taxes and assessments that are a lien on the Real Property, or that otherwise relate to the Real Property and are due and payable as of Closing (other than the lien of general real estate taxes that are not due and payable as of Closing) shall be paid by Seller on or before Closing. Real estate taxes for the year in which the Closing occurs shall be prorated and adjusted between Seller and Purchaser as of Closing on a calendar-year basis. If the real estate taxes for the year cannot be determined as of Closing, the taxes shall be prorated as of Closing based on the real estate taxes payable with respect to the Real Property for the immediately preceding calendar year. Once the actual real estate taxes for the year in which the Closing occurs have been determined, the proration of the taxes shall be recalculated based on the actual taxes for the year, and the party owing the other an amount based on the recalculation shall promptly pay the same to the other party. The parties shall arrange for final readings of utility meters as of Closing and Seller shall pay at Closing final utility charges based on the readings. Any other charges for utilities or other services, materials, or labor furnished to or with respect to the Property (other than services, materials, or labor contracted for by Purchaser) before Closing shall be paid by Seller on or before Closing.

5. *Contingency.* The obligation of the parties to close the transactions contemplated by this Agreement shall be contingent on **[describe contingency]**. If this contingency is not satisfied at or before Closing, this Agreement shall terminate and neither party shall have any further liabilities or obligations under this Agreement.

6. *Closing.* The transactions contemplated under this Agreement shall, subject to the satisfaction of the contingency set forth in Paragraph 5, be consummated at a closing (Closing) to be held on **[date]**. At Closing,

(a) Seller shall

(i) execute and deliver to Purchaser a covenant Deed to the Real Property in the form attached as Exhibit B;

(ii) execute and/or deliver affidavits and other documents that may be reasonably required by **[name of Title Company]** (Title Company) for the issuance of a title insurance policy pursuant to Title Insurance Commitment No. **[number]** issued by the Title Company (Title Policy), except that any UCC, bankruptcy, or judgment lien searches or the like shall be done at the sole effort, cost, and expense of Purchaser;

(iii) cause the Title Company to be paid the premium for the issuance of the Title Policy;

(iv) pay the real estate transfer taxes imposed under Michigan law in connection with the recordation of the Deed;

(v) execute, at Purchaser’s option, a Michigan Real Estate Transfer Tax Valuation Affidavit;

(vi) execute and deliver to Purchaser an Affidavit of nonforeign status;

(vii) execute and deliver to Purchaser a bill of sale and assignment of all of the personal property described in subparagraphs (c) and (d) of Paragraph 1;

(viii) deliver to Purchaser, to the extent within Seller’s or its agent’s possession or control, originals of all Plans and Warranties; and

(ix) deliver all keys to and exclusive possession of the Property to Purchaser, free and clear of the possessory rights of any person or entity and in the same condition as exists on the date of Purchaser’s execution of this Agreement.

(b) Purchaser shall pay to Seller the Purchase Price, as adjusted pursuant to Paragraph 5, by wire transfer of immediately available funds.

(c) Seller and Purchaser shall execute a mutually acceptable Closing Statement.

7. *Default and Remedies.*

(a) If Seller fails to perform in accordance with this Agreement or if any representation or warranty of Seller in this Agreement is untrue when made or at Closing, Seller shall be in default. In the event of a default by Seller, Purchaser may, as its sole and exclusive remedies, elect to either enforce the terms of or terminate this Agreement.

(b) In the event of a default under this Agreement by Purchaser, Seller may, as its sole and exclusive remedy, elect to terminate this Agreement. **[Note: Seller may also wish to consider including a provision regarding a forfeitable deposit.]**

8. *Representations and Warranties.*

(a) Seller warrants and represents to Purchaser that as of the date of this Agreement and at Closing

(i) Seller owns good and marketable fee simple title to the Real Property;

(ii) this Agreement constitutes a legal, valid, and binding agreement of Seller;

(iii) to Seller’s actual knowledge, (A) the Property has not been used for the generation, storage, treatment, or disposal of Hazardous Materials, (B) no Hazardous Material is located in, on, or beneath the Property, including but not limited to any underground storage tanks, and (C) no underground storage tank was previously removed from the Property;

(iv) to Seller’s actual knowledge, (A) there is no pending or threatened litigation or proceeding relating to the Property or the operation or use of it, and (B) there is no pending or threatened bankruptcy proceeding involving Seller;

(v) to Seller’s actual knowledge, the Property is not, and Seller has not received any notice that the Property is, in violation of any federal, state, local, or other governmental zoning, health, environmental, safety, platting, subdivision, or other law, ordinance, or regulation, or any applicable private restriction relating to the Property or the operation or use of it;

(vi) Seller has not received any notice from any insurance carrier of any defects or inadequacies in the Property, which, if not corrected, could result in a cancellation of insurance coverage or a material increase in the cost of it;

(vii) there are no leases or contracts relating to the Property or the operation or use of it that will be binding on Purchaser or the Property subsequent to Closing;

(viii) Seller has delivered to Purchaser all Plans, Warranties, and other documents, instruments, records, studies, agreements, permits, reports, surveys, title policies and commitments, environmental studies, and any and all other reports and similar or related information in Seller’s or its agent’s actual possession that pertain to the Property or the operation and use of it; and

(ix) (A) Seller is a **[entity type]** authorized and existing under the laws of the State of Michigan; (B) neither the execution of this Agreement nor the performance of Seller’s obligations under this Agreement will constitute a default under its organizational documents or any contract or agreement by which Seller is bound; and (C) the execution and delivery of this Agreement by Seller and the consummation of the transactions contemplated by this Agreement by Seller will not violate any order, writ, injunction, or decree of any court in any litigation to which Seller is a party or bound or violate any law.

(b) Purchaser represents and warrants to Seller as of the date of this Agreement and at Closing that

(i) Purchaser is a **[entity type]** authorized and existing under the laws of the State of Michigan;

(ii) neither the execution of this Agreement by Purchaser nor the performance of Purchaser’s obligations under this Agreement will constitute a default under its organizational documents or any contract or agreement by which Purchaser is bound; and

(iii) the execution and delivery of this Agreement by Purchaser and the consummation of the transactions contemplated by this Agreement by Purchaser will not violate any order, writ, injunction, or decree of any court and any litigation to which Purchaser is a party or bound or violate any law.

9. *Broker.* Seller and Purchaser each represent and warrant to the other that no broker has been engaged by it in connection with the transactions contemplated by this Agreement except that **[name of Seller’s Broker]** (Seller’s Broker) is acting as Seller’s agent in connection with the transactions contemplated by this Agreement, and **[name of Purchaser’s Broker]** (Purchaser’s Broker) is acting as Purchaser’s agent in connection with the transactions contemplated by this Agreement. Seller shall be responsible for paying the commission payable to Seller’s Broker pursuant to the agreement entered into by Seller and Seller’s Broker, and Purchaser shall be responsible for paying the commission payable to Purchaser’s Broker pursuant to the agreement entered into by Purchaser and Purchaser’s Broker. Seller and Purchaser shall each indemnify the other against any costs, claims, or expenses, including reasonable attorney fees, arising out of the breach of the foregoing representation by the indemnifying party. The indemnification provision of this Paragraph 9 shall survive the Closing or termination of this Agreement.

10. *Notice.* Any notice required or permitted to be given under this Agreement by one party to the other shall be in writing and the same shall be given and deemed to have been served and given when (a) delivered in person to the party to whom the notice is given, (b) placed in the U.S. mail, postage prepaid, by registered or certified mail, return receipt requested, or (c) deposited with a nationally recognized overnight courier service. The address of the parties for the purposes of this Agreement and for all notices under this Agreement shall be the address indicated in the introductory paragraph of this Agreement.

11. *Saturday, Sunday, or Legal Holiday.* Whenever any determination is to be made or action to be taken on a date specified in this Agreement, if the date falls on a Saturday, Sunday, or legal holiday, the date of the determination or action shall be extended to the next business day.

12. *Entire Agreement.* This Agreement embodies the entire agreement of the parties and supersedes any prior or contemporaneous understandings or written or oral agreements between them concerning the Property. No variation, modification, or alteration of these terms shall be binding on either party unless set forth in an express and formal written amendment executed by all parties to this Agreement.

13. *Survival.* The representations and warranties of the parties contained in this Agreement shall survive the Closing for one year and shall not merge in the covenant deed or any of the other documents executed in connection with the Closing.

14. *Governing Law.* This Agreement shall be governed by and construed under and in accordance with the laws of the State of Michigan.

15. *Binding Effect.* All of the terms and provisions in this Agreement shall bind and inure to the benefit of the parties and their respective heirs, personal representatives, successors, and assigns.

16. *Construction.* This Agreement shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the parties, it being acknowledged and agreed that this Agreement shall be interpreted in light of the probable intent of the parties.

17. *Attorney Fees.* In connection with any litigation, including appellate proceedings, arising out of this Agreement, the prevailing party shall be entitled to recover from the losing party the reasonable attorney fees and other costs incurred by the prevailing party in connection with the litigation.

18. *Counterparts; Facsimile.* This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument. This Agreement may be executed and delivered by facsimile transmission, and a facsimile of this Agreement or of a signature of a party will be effective as an original.

The parties have executed this Agreement on the date listed on the first page.

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| --- | --- | --- |
|  |  | **SELLER:** |
|  |  | **[Name of seller]**  **[Signature line]**  **[Typed name of authorized signer]**  Its: **[Title of authorized signer]** |
|  |  | **PURCHASER:** |
|  |  | **[Name of purchaser]**  **[Signature line]**  **[Typed name of authorized signer]**  Its: **[Title of authorized signer]** |

**EXHIBIT A** **Legal Description**

**EXHIBIT B** **Form of Deed**