

WHEN RECORDED MAIL TO:

SPACE ABOVE THIS LINE FOR RECORDER

CAUTION: READ BEFORE YOU SIGN

- *This is a legally binding contract; if you do not understand it, seek legal advice before you sign.*
- *This contract is intended to be filled in by lawyers or by real estate brokers. All others seek professional advice.*
- *To assure protection of certain priority rights in the property, it is recommended that this contract and any assignments, or addenda, be recorded in the office of the applicable County Recorder.*

UNIFORM REAL ESTATE CONTRACT

1. **Parties.** This contract, made and entered into this _____ day of _____, 19 _____ is by and between _____ (hereafter collectively called "Seller"), whose address is _____ and _____ (hereafter collectively called "Buyer"), whose address is _____

2. **Property.** Seller agrees to sell and Buyer agrees to buy the real property (the "Property") located at _____ (street address), in the City of _____ County of _____, State of Utah, described as: _____

3. **Date of Possession.** Seller agrees to deliver possession and Buyer agrees to enter into possession of the Property on the _____ day of _____, 19 _____.

4. **Price and Payment.**

A. Buyer agrees to pay for the Property the purchase price of _____ Dollars (\$_____) payable at Seller's address above given, or to Seller's order on the following terms: _____ Dollars (\$_____) down payment, receipt of which is hereby acknowledged, and the balance of _____ Dollars (\$_____) to be paid as follows:

B. Payments shall include interest at the rate of _____ percent (_____%) per annum on the unpaid principal balance from the date of _____. Any payment not made within _____ (_____) days of its due date shall subject Buyer to a late payment charge of _____ percent (_____%) of such overdue payment, which charge must be paid before receiving credit for the late payment. The foregoing payments include a reserve for payment of [] taxes [] insurance [] condo fees [] other (explain) _____

Initially, the reserve amount per payment is _____. In the event reserve payments on underlying obligations for the Property change, Seller shall give Buyer thirty (30) days written notice of change, and reserve payments herein shall be adjusted accordingly.

C. All payments made by Buyer shall be applied first to payment of late charges, next to Seller's payments under Section 12, with interest as provided therein, next to the payment of reserves if any, next to the payment of interest, and then to the reduction of principal. Buyer may, at Buyer's option, pay amounts in excess of the periodic payments herein provided, and such excess shall be applied to unpaid principal unless Buyer elects in writing at the time of such payment that it shall be applied as prepayment of future installments. In the event of any prepayment by Buyer, Buyer shall assume and pay all penalties incurred by Seller in making accelerated payments on any underlying obligations.

D. When the unpaid principal balance owing under this contract is equal to or less than the total balance outstanding on the underlying obligation(s) shown in Section 8 below, then:

(1) Upon (i) assumption by Buyer of the underlying obligation(s) and (ii) release of Seller from all liabilities and obligations thereunder, Buyer may request and Seller shall execute and deliver a Warranty Deed subject to the then existing underlying obligation(s) shown in Section 8 below; or

(2) Provided there is no "due-on-sale" provision contained in any underlying obligation(s) shown in Section 8 below, Seller may execute and deliver to Buyer a Warranty Deed subject to the then existing underlying obligation(s) shown in Section 8 below, which Buyer agrees to assume and pay; or

(3) In the event neither Buyer nor Seller exercises the options provided in (1) and (2) of this sub-section, and this contract therefore remains in effect, then the payments and interest rate shown in this Section, to the extent they differ from the underlying obligations, shall immediately and automatically be adjusted to equal the payments and interest rate then required under the underlying obligations, and Buyer, in addition to such adjusted payments, shall also pay a monthly servicing fee to Seller in the amount of \$_____.

5. **No Waiver.** If Seller accepts payments from Buyer on this contract in an amount less than or at a time later than herein provided, such acceptance will not constitute a modification of this contract or a waiver of Seller's rights to full and timely performance by Buyer.

6. **Risk of Loss.** All risk of loss and destruction of the Property shall be borne by Seller until the agreed date of possession.

7. **Evidence of Title.** Buyer has received a Commitment for Title Insurance (Commitment) on the Property at the time of or prior to execution of this contract. Seller shall, at his expense, furnish Buyer evidence of marketable title in the form of an Owner's Title Insurance Policy (Title Policy) insuring Buyer's interest in the Property under this contract for the amount of the purchase price. The Title Policy will be based on Commitment No. _____ issued by: _____. The Title Policy issued to Buyer will contain the following numbered exceptions shown on the Commitment: _____

8. Underlying Obligations.

A. Seller warrants that the only underlying obligations against the Property are:

(1) Obligation in favor of _____

with an unpaid principal balance of _____ Dollars (\$_____) as of _____, 19____ with monthly payments of \$_____, with interest at _____ percent (_____%) per annum and balloon payments as follows: _____

(2) Obligation in favor of _____

with an unpaid principal balance of _____ Dollars (\$_____) as of _____, 19____ with monthly payments of \$_____, with interest at _____ percent (_____%) per annum and balloon payments as follows: _____

(3) Obligation in favor of _____

with an unpaid principal balance of _____ Dollars (\$_____) as of _____, 19____ with monthly payments of \$_____, with interest at _____ percent (_____%) per annum and balloon payments as follows: _____

B. COPIES OF SUCH UNDERLYING OBLIGATIONS [] HAVE [] HAVE NOT BEEN DELIVERED TO BUYER AT OR PRIOR TO CLOSING. SUCH UNDERLYING OBLIGATIONS [] CONTAIN [] DO NOT CONTAIN DUE ON SALE OR DUE ON ENCUMBRANCE PROVISIONS.

C. IN THE EVENT THE HOLDER OF ANY UNDERLYING OBLIGATION(S) REFERRED TO IN SUB-SECTION A. CAUSES TO BE ISSUED A WRITTEN NOTICE OF ITS INTENT TO EXERCISE ANY OF THE DUE ON SALE REMEDIES, THEN BUYER AGREES TO EITHER PAY, ASSUME OR REFINANCE SUCH UNDERLYING OBLIGATION(S) IN THE MANNER PROVIDED BELOW, AND BUYER AGREES TO PAY ALL COSTS, FEES AND CHARGES INCURRED IN CONNECTION WITH SUCH PAYMENT, ASSUMPTION OR REFINANCING (INCLUDING, BUT NOT LIMITED TO, PREPAYMENT PENALTIES, LOAN POINTS, INCREASED INTEREST RATE, APPRAISAL AND CREDIT REPORT FEES, ESCROW AND TITLE CHARGES, TITLE INSURANCE PREMIUMS, AND RECORDING FEES). BUYER'S INABILITY OR FAILURE TO PAY, ASSUME, OR REFINANCE SUCH UNDERLYING OBLIGATION(S) WITHIN FORTY-FIVE (45) DAYS FROM THE DATE OF NOTICE TO BUYER OF SUCH WRITTEN NOTICE FROM THE HOLDER, SHALL CONSTITUTE A DEFAULT BY BUYER UNDER THIS CONTRACT.

(1) **Assumption.** In the event buyer elects to assume such underlying obligation(s), Buyer shall be entitled to the delivery of a Warranty Deed executed by the Seller wherein the Buyer is the Grantee upon the satisfaction of the following conditions precedent: (i) Buyer is not then in default under the terms of this contract; (ii) Buyer has deposited with Seller written evidence from the holder of the underlying obligation(s) being assumed that such holder has approved Buyer's assumption; and (iii) if any portion of the Seller's equity under this contract remains unpaid, Buyer shall execute and deliver to Seller, Buyer's Trust Deed Note in a principal amount equal to the unpaid balance of Seller's equity under this contract, which shall include any accrued unpaid interest. Said note shall bear interest from the date thereof at the same rate at which interest accrues on the Seller's equity under this contract. Installments shall be made over the term then remaining and at the same time as provided for in this contract with the exact amount of the installments being calculated by re-amortizing the aforesaid

amount of the Trust Deed Note utilizing the interest rate at which interest accrues on Seller's equity under this contract, the schedule of payments, and term specified herein. Such note shall be secured by a Deed of Trust encumbering the property which shall be subordinate only to the Deed or Deeds of Trust securing the underlying obligation(s) and any obligations refinanced as provided in sub-section C.(2).

(2) **Refinancing/Pay-Out.** In the event Buyer pays or obtains a new loan refinancing one or more of the underlying obligations, then buyer shall be entitled to the delivery of a Warranty Deed executed by the Seller wherein the Buyer is Grantee; provided, however, if any portion of the seller's equity remains unpaid, then the following conditions precedent shall have been satisfied: (i) Buyer is not then in default under any of the terms of this Contract; (ii) the principal amount of the new loan may exceed the unpaid balance of the underlying obligation(s) being refinanced only if all loan proceeds which exceed the unpaid balance of the underlying obligation(s) are paid to the Seller as a credit against the unpaid balance of Seller's equity in this Contract; and (iii) Buyer shall have executed and delivered to Seller, Buyer's Trust Deed Note in the form, the amount, and with the terms of the Trust Deed Note described in Section C(1)(iii). Such note shall be subordinate only to the Deed(s) of Trust securing the new loan(s) and any remaining Deed(s) of Trust securing the underlying obligation(s) which have not been reconveyed.

9. **Taxes and Assessments.** Buyer agrees to pay all taxes and assessments of every kind which become due on the Property during the life of this contract. Seller covenants that there are no taxes, assessments, or liens against the Property not mentioned in Section 8 except:

which will be paid by: Seller Buyer Other (explain) _____

10. **Covenant Against Liens.** Except for the liens and encumbrances listed in Sections 8 and 9, Seller covenants to keep the Property free and clear of all liens and encumbrances resulting from acts of Seller. So long as Buyer is current hereunder, Seller agrees to keep current the payments on all obligations to which Buyer's interest is subordinate. Should Seller default on the foregoing covenants on any one or more occasions, Buyer may, at Buyer's option, in whole or in part, make good Seller's default to Seller's obligee and deduct all expenditures so paid from future payments to Seller and Seller shall credit all Buyer's sums so expended to the indebtedness herein created just as if payment had been made directly to Seller under provisions of Section 4 above.

11. **Insurance.** On and after the agreed date of possession, Buyer shall maintain at Buyer's expense, the following insurance policies naming the Seller as an additional insured and with a certificate of insurance provided to Seller that includes a ten (10) day notice of cancellation in favor of Seller: (i) insurance against loss by fire and other risks customarily covered by "All Risk" insurance on insurable buildings and improvements at 80% of replacement value; and (ii) general liability insurance having coverage of not less than \$_____. All such insurance policies shall be in companies which are duly licensed by the State of Utah and are acceptable to Seller. Acceptance of such companies by Seller may not be unreasonably withheld.

12. **Seller's Option To Discharge Obligations.** In the event Buyer shall default in the payment of taxes, assessments, insurance premiums or other expenses of the Property, Seller may, at Seller's option, pay said taxes, assessments, insurance premiums or other expenses, and if Seller elects so to do, Buyer agrees to repay Seller upon demand all such sums so advanced and paid by Seller together with interest thereon from date of payment of said sums at the rate of the greater of one (1%) or _____ percent (_____%) per month until paid, and when the principal sum provided in this contract is paid, if Buyer fails to also repay Seller such advances, Seller may refuse to convey title to the Property until such repayment is made.

13. **Conveyance of Title.** Seller on receiving the payments herein reserved to be paid at the time and in the manner specified herein, agrees to execute and deliver to Buyer or assigns, a good and sufficient warranty deed conveying the title to the above described premises free and clear of all encumbrances except those which have accrued by or through the acts or neglect of Buyer and those which Buyer has specifically agreed to pay or assume under the terms of this contract, and subject to the following numbered exceptions to title that are contained in the commitment for title insurance described in Section 7 hereof: _____

14. **No Waste.** Buyer agrees that Buyer will neither commit nor suffer to be committed any waste, spoil or destruction in or upon the Property which would impair Seller's security, and that Buyer will maintain the Property in good condition.

15. **Attorney's Fees.** Both parties agree that, should either party default in any of the covenants or agreements herein contained, the non-defaulting party or, should litigation be commenced, the prevailing party in litigation, shall be entitled to all costs and expenses, including a reasonable attorney's fee, which may arise or accrue from enforcing or terminating this contract, or in obtaining possession of the Property, or in pursuing any remedy provided hereunder or by applicable law.

16. **Buyer's Default.** Should buyer fail to comply with any of the terms hereof, Seller may, in addition to any other remedies afforded the Seller in this contract or by law, elect any of the following remedies:

A. Seller shall give Buyer written notice specifically stating: (1) The Buyer's default(s); (2) that buyer shall have thirty (30) days from his receipt of such written notice within which to cure the default(s), which cure shall include payment of Seller's costs and reasonable attorney's fees; and (3) Seller's intent to elect this remedy if the Buyer does not cure the default(s) within the thirty (30) days. Should Buyer fail to cure such default(s) within the thirty (30) days, then Seller shall give to Buyer another written notice informing Buyer of his failure to cure the default(s) and of Seller's election of this remedy. Immediately upon Buyer's receipt of this second written notice, Seller shall be released from all obligations at law and equity to convey the Property to Buyer, and Buyer shall become at once a tenant-at-will of Seller. All payments which have been made by Buyer prior thereto under this contract shall, subject to then existing law and equity, be retained by Seller as liquidated and agreed damages for breach of this contract; or

B. Seller may bring suit and recover judgment for all delinquent installments and all reasonable costs and attorneys' fees, and the use of this remedy on one or more occasions shall not prevent Seller, at Seller's option, from resorting to this or any other available remedy in the case of subsequent default; or

C. Seller shall give Buyer written notice specifically stating: (1) The Buyer's default(s); (2) that Buyer shall have thirty (30) days from his receipt of such written notice within which to cure the default(s), which cure shall include payment of Seller's costs and reasonable attorney's fees; and (3) Seller's intent to elect this remedy if the Buyer does not cure the default(s) with the thirty (30) days. Should Buyer fail to

cure such default(s) within the thirty (30) days, then Seller shall give to Buyer another written notice informing Buyer of his failure to cure the default(s), Seller's election of this remedy, and that the entire unpaid balance hereunder is at once due and payable. Thereupon, Seller may treat this contract as a note and mortgage, pass or tender title to Buyer subject thereto, and proceed immediately with a mortgage foreclosure in accordance with the laws of the State of Utah. Upon filing the foreclosure complaint in court, Seller shall be entitled to the immediate appointment of a receiver. The receiver may take possession of the premises, collect the rents, issue and profits therefrom and apply them to the payment of the obligation hereunder, or hold them pursuant to the order of the court. Upon entry of a judgment of foreclosure, Seller shall be entitled to possession of the premises during the period of redemption.

17. **Time of Essence.** It is expressly agreed that time is of the essence in this contract.

18. **Warranties of Physical Condition.** With respect to the physical condition of the Property, Seller warrants the following: _____

19. **Other Provisions.** _____

20. **Captions.** Section captions shall not in any way limit, modify, or alter the provisions in the Section.

21. **Notices.** Except as otherwise provided herein, all notices required under this contract will be effective when: (a) personally delivered or; (b) mailed certified or registered, addressed to the applicable party at the address shown in Section 1, or at such other address as may be hereinafter designated by such party by written notice to the other party.

22. **Binding Effect.** This contract is binding on the heirs, personal representatives, successors and assigns of the respective parties hereto.

23. **Entire Agreement.** This contract contains the entire agreement between the parties hereto. Any provisions hereof not enforceable under the laws of the State of Utah shall not affect the validity of any other provisions hereof. No supplement modification or amendment of this contract shall be binding on the parties hereto unless signed in writing by both parties hereto.

IN WITNESS WHEREOF, the parties have set their signatures on the day and year first above written.

BUYER: _____ SELLER: _____

STATE OF UTAH
_____ ss.
COUNTY OF _____

On the _____ day of _____, 19 _____ personally appeared before me _____, Seller and signer of the above instrument, who duly acknowledged to me that _____ he _____ executed the same.

NOTARY PUBLIC
My Commission Expires: _____ Residing at: _____

STATE OF UTAH
_____ ss.
COUNTY OF _____

On the _____ day of _____, 19 _____ personally appeared before me _____, Buyer and signer of the above instrument, who duly acknowledged to me that _____ he _____ executed the same.

NOTARY PUBLIC
My Commission Expires: _____ Residing at: _____