

PURCHASE AND SALE AGREEMENT FOR BUSINESS PROPERTY

THIS AGREEMENT made effective as of the ____ day of _____, _____.

BETWEEN:

[NAME OF SELLER]

[address]
(the "Seller")

- and -

[NAME OF PURCHASER]

[address]
(the "Purchaser")

Purchaser may assign its rights under this Agreement to an entity in which Purchaser has an equity interest subject to appropriate personal guarantees from the principals of such entity.

WHEREAS:

- A. Seller is the owner of that certain real property located at _____ [street address], _____ [city], State of California, commonly known as _____ [name of building], including all offsite improvements including, but not limited to, sewer, gutter, sidewalks, streetlights and other improvements, and the chattels and other assets more particularly described in Exhibit "A" attached hereto (collectively the "Property").
- B. Seller desires to sell the Property to Purchaser, and Purchaser desires to acquire the Property on the terms and conditions set out in this Agreement,
- C. Seller has notified Purchaser that the purchase and sale described herein is subject to a right of first refusal, the expiration of which is a condition precedent to both Purchaser's and Seller's duties herein. In the event that the right of first refusal is exercised, this Agreement shall be terminated without liability to either party, and Purchaser and Seller shall each be responsible for their own costs. Upon the expiration of the right of first refusal, or upon the waiver of that right by the Holder, the condition precedent shall be satisfied and this Agreement shall become binding and enforceable on both parties as to the terms and conditions set forth herein.

NOW, THEREFORE, in reliance upon the mutual covenants and agreements of Purchaser and Seller, Purchaser agrees to buy from Seller the Property upon the terms, conditions and agreements hereinafter set forth:

1. Purchase Price

The purchase price ("Purchase Price") for the Property shall be the sum of _____ DOLLARS (\$_____), plus the inventory of Seller's business (the "Business"), at Seller's cost as hereinafter determined at close of escrow.

2. Terms of Payment

The Purchase Price shall be paid by Purchaser to Seller as follows:

- (a) An initial deposit of cash in an amount equal to _____ DOLLARS (\$_____) was deposited by Purchaser into an escrow to be established for purposes of consummating this transaction (the "Deposit"). Purchaser's execution of this Agreement evidences Purchaser's written approval of the contingencies specified in Section 6 below;
- (b) Cash (in addition to the initial deposits) in an amount equal to _____ DOLLARS (\$_____) shall be paid by Purchaser to Seller upon the close of escrow;

- (c) An additional sum of cash in an amount equal to:
- (i) The inventory value determined at cost as hereinafter provided, shall be paid by Purchaser to Seller at the close of escrow.
 - (ii) Increased or decreased by the amount by which the total balance due on the Note assumed under sub-clause (d) below exceeds or is less than _____ DOLLARS (\$_____);
- (d) Purchaser shall assume the existing _____ loan secured by the real property and business in the approximate amount of _____ DOLLARS (\$_____). The actual Note balance to be assumed shall be provided by Seller. Any penalty or charge related to the Note assumption shall be paid by Purchaser at Purchaser's sole cost and expense.

3. Condition of Equipment

Seller represents and warrants to Purchaser that all equipment being transferred to Purchaser hereunder shall be fully operational and in good working condition at close of escrow as hereinafter defined, provided, however, that Seller's representation or warranty shall expire ___ days following the close of escrow.

4. Deposits

Purchaser has paid into escrow a cash deposit in the amount of _____ DOLLARS (\$_____), receipt of which is acknowledged by Seller. The deposit is non-refundable and shall be applied solely to the Purchase Price. Purchaser acknowledges and agrees that the deposit shall be distributed to Seller free and discharged from escrow at any time at Seller's sole discretion. In the event that Purchaser fails to complete the transaction hereunder upon expiration of the Feasibility Period, the deposit shall be retained by Seller as liquidated damages, in addition to any other legal remedies available to Seller at law or equity.

5. Title Insurance and Escrow Fees

Seller shall provide Purchaser, at Seller's cost, with a standard CLTA policy of title insurance insuring Purchaser with respect to title of the real property forming part of the Property being transferred hereunder. Purchaser and Seller shall pay equally all fees incurred or in connection with the close of escrow including, but not limited to, all escrow fees and charges and recording fees. Any additional costs associated with an ALTA survey premium requested by Purchaser will be made at Purchaser's expense.

6. Conditions of Escrow and Feasibility

Close of escrow is expressly conditioned upon the following terms:

- (a) *Title.* The Preliminary Title Report and legible copies of all exceptions reflected therein shall be delivered to Purchaser within five (5) days of the execution of the Purchase and Sale Agreement by Purchaser and Seller. Purchaser shall either approve or disapprove any such exceptions in writing within thirty (30) days of receipt of that Title Report.