

**PURCHASE AND SALE AGREEMENT**

**THIS PURCHASE AND SALE AGREEMENT** (the “Agreement”) is dated as of \_\_\_\_\_, by and between \_\_\_\_\_ (the “Seller”) and the buyer identified below (the “Buyer”), shall be effective as of the Effective date defined below, and recites and provides as follows:

**BUYER:** \_\_\_\_\_  
*(Print Name/Print Entity Name if Applicable)*

**BUYER’S BROKER NAME** (the “Buyer’s Broker”): \_\_\_\_\_ *(If applicable)*

**BUYER’S BROKER LICENSE NUMBER:** \_\_\_\_\_

**SELLER’S BROKER NAME** (the “Seller’s Broker”): \_\_\_\_\_ *(If applicable)*

**SELLER’S BROKER LICENSE NUMBER:** \_\_\_\_\_

**PROPERTY** (the “Property”):

Assessor’s Parcel No./Parcel Identification Number: \_\_\_\_\_

Commonly known as: \_\_\_\_\_  
*(Street Address including unit number if applicable, City, County & Zip Code)*

Short form legal description (if available): \_\_\_\_\_

**Purchase Price.** The purchase price for the Property shall be \$ \_\_\_\_\_ (the “Purchase Price”). The Purchase Price includes any Buyer’s Premium due LendingHome Real Estate Network LLC or LendingHome Funding Corporation (“LendingHome”) or a LendingHome referral source. Purchase Price and the amount due from Buyer at closing are calculated as follows:

- A. Sale Price \$ \_\_\_\_\_
- B. Buyer’s Premium – LendingHome \$ \_\_\_\_\_
- C. \_\_\_\_\_ (if any) \$ \_\_\_\_\_
- D. Purchase Price (A plus B plus C) \$ \_\_\_\_\_
- E. Earnest Money Deposit \$ \_\_\_\_\_
- F. Balance to be paid by Purchaser at Closing (D minus E) \$ \_\_\_\_\_  
(does not include closing costs to be borne by Buyer)

**RECITALS**

WHEREAS, Buyer desires to purchase the Property and is hereby submitting an offer (the “Offer”) for purchase via the LendingHome Property Marketplace.

WHEREAS, Buyer is a professional investor in real estate and will acquire the Property for resale and not as her own residence or the residence of any principal or employee of Buyer;

WHEREAS, the Offer is subject to the terms and conditions of this Agreement, and any addenda, modifications or riders hereto.

WHEREAS, Seller agrees to sell the Property subject to the terms and provisions of this Agreement and any addenda, modifications or riders hereto.

## AGREEMENT

NOW, THEREFORE, for and in good consideration of the mutual promises, covenants and conditions set forth herein, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

**Section 1. Sale and Purchase.** Subject to the terms and conditions hereof, Seller shall sell, and Buyer shall purchase the Property. Buyer and Seller agree that the “Effective Date” of this Agreement shall be the date the Seller executes this Agreement as set forth on the signature page.

**Section 2. Offer and Acceptance.** This Agreement, when executed by Buyer and submitted to Seller by LendingHome, shall be irrevocable for **Three (3) Business Days After** the date of submission (the “Irrevocable Period”), and may not be withdrawn for any reason by Buyer during the Irrevocable Period. In the event Seller does not execute and return this Agreement to Buyer within the Irrevocable Period, Buyer may then withdraw the Offer and this Agreement shall then be terminated and shall have no further force and effect, except for any surviving obligations expressly included in this Agreement. Upon any such withdrawal of the Offer, Buyer shall be refunded any Earnest Money Deposit, with no deductions or penalties, within **Seven (7) Business Days After** Buyer’s notice to Seller and Escrow Holder (as hereinafter defined in Section 3.B) that the Offer is withdrawn. (As used herein, “**Business Day**” shall mean a day other than Saturday, Sunday or any day that is a federal holiday in the United States of America. All other references to “days” in this Agreement shall refer to calendar days. As used herein, “**Days After**” shall mean the specified number of calendar days after the occurrence of the event specified, not counting the calendar date on which the specified event occurs, and ending at 11:59 PM on the final day.) By executing this Agreement, Seller accepts the Offer. **UNDER NO CIRCUMSTANCES SHALL THIS AGREEMENT BE BINDING ON EITHER BUYER OR SELLER UNLESS AND UNTIL THIS AGREEMENT IS FULLY EXECUTED BY BOTH BUYER AND SELLER.**

The Purchase Price shall be payable as follows:

- A. Earnest Money Deposit. Within **Two (2) Business Days After** the electronic delivery of the fully executed Agreement by LendingHome, Buyer shall provide an Earnest Money Deposit (“Earnest Money Deposit”) in the amount of \_\_\_\_\_. Buyer shall deliver to Escrow Holder such Earnest Money Deposit in the form of an electronic funds transfer, cashier’s check, or previously deposited funds submitted to Escrow Holder designated herein.

All earnest money funds provided by Buyer shall be held in a non-interest-bearing account by the Escrow Holder and are non-refundable upon execution of this Agreement by Buyer and Seller, unless otherwise specified herein.

In the event a check or any other funds provided by Buyer relating to this Agreement are returned as non-sufficient funds (NSF) or in any other way are not accepted or are rejected by Escrow Holder, then this Agreement may, in Seller’s sole discretion, be terminated immediately except as otherwise provided in the Buyer default provisions contained below. In the event of such a termination by Seller, the Earnest Money Deposit by Buyer will be retained by Seller as undisputed liquidated damages in accordance with Section 12 below.

- B. Remaining Balance. The balance of the Purchase Price, less the total Earnest Money Deposit, plus any closing costs to be borne by Buyer, is to be paid at Closing (as hereinafter defined) pursuant to Escrow Holder’s instructions.

Buyer has disclosed to Seller in writing the details of any loan it intends to borrow, if applicable, in order to help fund the Purchase Price. Notwithstanding the foregoing, the parties agree that Buyer obtaining any loan is not a contingency of this Agreement. If Buyer does not obtain any loan and cannot purchase the Property, then Seller shall be

entitled to retain the Earnest Money Deposit or other legal remedies set forth in this Agreement.

Within **2 (two) Business Days After** the Effective Date, Buyer and Seller will open an escrow with the Escrow Holder by delivering to Escrow Holder a fully executed copy of this Agreement. Buyer and Seller agree to execute any escrow instructions reasonably required by the Escrow Holder. This Agreement and any standard escrow instructions of Escrow Holder mutually executed by Buyer and Seller shall constitute the escrow instructions of the parties. To the extent of any inconsistency between the provisions in this Agreement and the provisions in any standard escrow instructions, the provisions contained in the Agreement shall prevail.

**Section 3. Closing.**

- A. Closing shall take place at a date which shall be no later than \_\_\_\_\_, (the "Closing"). Any extension of the Closing Date shall be granted in Seller's sole discretion, and be subject to payment of a per diem fee set by Seller.
- B. The agent managing the escrow for this Agreement shall be \_\_\_\_\_ at \_\_\_\_\_ Company ("Escrow Holder"), who may be reached at the e-mail address and telephone number provided in the Notices section (Section 17) below.
- C. At the Closing, Seller shall convey to Buyer, by the deed in the form required by the Title Officer (the "Deed"), insurable fee simple title to the Property (including oil, mineral and water rights if currently owned by Seller) free and clear of monetary liens (not including non-delinquent taxes and/or assessments). Subject to the rights of tenants in possession, if any, including Seller's rights as a holdover tenant if previously agreed to by Buyer (1) Seller shall deliver possession of the Property to the Buyer as of the date of Closing, and (2) the Buyer shall be responsible for rekeying the property. Unless otherwise agreed in writing, Seller shall provide to Buyer keys, passwords, codes and/or means to operate all locks, mailboxes, security systems, alarms, home automation systems and intranet and Internet-connected devices included in the Purchase Price, and garage door openers. If the Property is a condominium or located in a common interest subdivision, Buyer may be required to pay a deposit to the Homeowners' Association ("HOA") to obtain keys to accessible HOA facilities.
- D. At the Closing, Seller shall assign to Buyer any warranty rights (if assignable) for items included in the sale with copies of any such warranties.
- E. At the Closing, Buyer shall pay to Escrow Holder the remaining Purchase Price as provided in Section 2.B above.
- F. At the Closing, Escrow Holder shall deliver to Seller and Buyer a settlement statement in form and substance reasonably satisfactory to Buyer and Seller and Escrow Holder shall deliver to Seller and Buyer such other documents, certificates and instruments as may reasonably be required to convey the Property to Buyer.
- G. In the event the Property is tenant occupied on the day of Closing, or the Seller shall be a holdover tenant in the Property, either:

Buyer initials: \_\_\_\_\_ Seller initials: \_\_\_\_\_

- A. All tenants shall vacate the property before Closing.

OR

Buyer initials: \_\_\_\_\_ Seller initials: \_\_\_\_\_

B. Buyer accepts the Property subject to any such tenancies upon assignment of the related leases to Buyer by Seller.

OR

Buyer initials: \_\_\_\_\_ Seller initials: \_\_\_\_\_

C. Seller as holdover tenant shall vacate the Property by 9 p.m. on the day which is \_\_\_\_ days after the Closing and shall pay Buyer per diem rent of \$ \_\_\_\_\_ for every day the property is occupied by Seller after the Closing. Seller shall be a tenant at sufferance if she does not vacate the Property by the date specified above;

AND/OR

Buyer initials: \_\_\_\_\_ Seller initials: \_\_\_\_\_

D. The Escrow Holder shall retain the amount of \_\_\_\_% of the Sale Price (the "Holdback") and not disburse that amount at the Closing. Disbursement of the Holdback shall be contingent upon the Property being vacated by all tenants and Seller by 9 p.m. on the day which is \_\_\_\_ days after the Closing. If the Property is not so vacated at that time, the Holdback shall be disbursed to Buyer. If it is so vacated, the Holdback shall be disbursed to Seller. Escrow Holder may rely upon the sworn statement of the Buyer with respect to the occupancy status of the property and disposition of the Holdback, and will be held harmless by both Buyer and Seller for reliance upon such a sworn statement. Return of the Holdback to Buyer shall not constitute a waiver of any right Buyer may have to subsequently evict any tenant or Seller from the Property.

**Section 4. Closing Costs.** Unless expressly set forth herein to the contrary, the costs of Closing as determined by the Escrow Holder, shall be paid by the Buyer. Buyer and Seller shall each pay all legal and professional fees and fees of other consultants incurred by Buyer and Seller, respectively.

**Section 5. Brokers.**

- A. If a Buyer's Broker has not been identified on the first page of this Agreement, Buyer hereby represents and warrants that Buyer has not and will not use a broker on this transaction.
- B. If a Seller's Broker has not been identified on the first page of this Agreement, Seller hereby represents and warrants that Seller has not and will not use a broker on this transaction.
- C. Buyer shall be solely responsible for the payment of a brokerage fee or commission due to Buyer's Broker, if any, as a result of the transfer of the Property, pursuant to a separate agreement between Buyer and Buyer's Broker, if any. Buyer shall indemnify and hold the Seller, and any of Seller's successors and/or assignees, harmless from and against any claims made by Buyer's Broker for any brokerage fee or commission arising under this Agreement or from the transfer of the Property.
- D. Seller shall be solely responsible for the payment of a brokerage fee or commission due to Seller's Broker, if any, as a result of the transfer of the Property, pursuant to a separate agreement between Seller and Seller's Broker, if any. Seller shall indemnify and hold the Buyer, and any of Buyer's successors and/or assignees, harmless from and against any

claims made by Seller's Broker for any brokerage fee or commission arising under this Agreement or from the transfer of the Property.

E. Seller's Broker, if any, and Buyer's Broker, if any, are not parties to this Agreement.

**Section 6. Taxes and Assessments.** All past due and accrued real property taxes and assessments (if any) shall be paid current and prorated between Buyer and Seller at Closing. The water rates and sewer charges, HOA and any other past due or accrued charges, if any, shall be paid current, prorated between Buyer and Seller, and adjusted to the date of Closing. Proration shall mean the Seller is responsible for any pro-rated items up to and including the day of the Closing, including any delinquent or past-due amounts.

**Section 7. Representations.**

A. The Seller represents to Buyer the following:

- i. The Seller has authority to sell the Property and is authorized to deliver a Deed, and such other documents that are customary and necessary to convey clear title to the Property to the Buyer.
- ii. The Property is currently vacant and/or will be vacant prior to the Closing unless otherwise disclosed by Seller.
- iii. Except as set forth in any materials regarding the Property delivered to Buyer or as otherwise disclosed in writing by Seller, to Seller's actual knowledge, there are no pending or threatened legal proceedings or administrative actions of any kind or character adversely affecting, or which would adversely affect, the Property or Seller's interest therein, including any condemnation or zoning proceedings.
- iv. Except as set forth in any materials regarding the Property delivered to Buyer or as otherwise disclosed in writing by Seller, Seller has received no written notice from (i) any city, county, state or other government authority of any violation of any statute, ordinance, regulation, or administrative or judicial order or holding, whether or not appearing in public records, (ii) any applicable homeowner's association of any violation of any rule, CC&R or other requirement of such association, with respect to the Property, which violation has not been corrected.
- v. There are no court or governmental orders of any kind prohibiting the transactions contemplated by this Agreement, and Seller does not require the approval or permission of any person, including any governmental body, homeowner's association or other entity to execute this Agreement.
- vi. All of the foregoing representations and warranties of Seller and all other representations and warranties of Seller made in this Agreement are qualified in their entirety by the Property documents previously delivered to Buyer prior to submitting the Offer.

B. The Buyer represents to Seller the following:

- i. The Earnest Money Deposit will be good when deposited with Escrow Holder.
- ii. The Buyer has authority to acquire the Property and is authorized to sign and deliver any instruments and such other documents that are customary and necessary to acquire the Property from Seller.

- iii. This Agreement and Buyer's ability to obtain any financing are not contingent upon the sale of any property owned by Buyer.
- iv. There is no loan contingency under this Agreement.
- v. There is no due diligence contingency under this Agreement.
- vi. This Agreement is not contingent upon a written appraisal of the Property by a licensed or certified appraiser at no less than the Purchase Price.

**Section 8. Disclosures.**

- A. Property Disclosures. Buyer and Seller acknowledge and agree that the local, state and federally required disclosures for residential (1 - 4 unit) property sales set forth on **Exhibit A** have been fully completed and signed by Buyer, Seller, Buyer's Broker (if any) and Seller's Broker (if any) and delivered to and received by both Seller and Buyer or their respective authorized representatives. Buyer and Seller agree that LendingHome Property Marketplace will coordinate the delivery to the parties of the state and federally required disclosures, on its website, platform, portal or through other reasonable electronic means. Notwithstanding the foregoing, any local required disclosures have been or will be provided by Seller to Buyer prior to the Effective Date.
- B. Common Interest Development Documents. To the extent the Property is a condominium or is located in a planned development or other common interest subdivision, Seller has provided written notice of same to Buyer. Buyer and Seller acknowledge and agree that the legally required disclosures for common interest developments have been fully completed and signed by Buyer, Seller, Buyer's Broker (if any) and Seller's Broker (if any) and delivered to and received by both Seller and Buyer or their respective authorized representatives.
- C. Potential Amended Disclosures. The parties agree that if, prior to Closing, Seller becomes aware of any adverse conditions materially affecting the Property, or any material inaccuracy in any disclosures, representations or other information provided to Buyer, then Seller shall promptly provide to Buyer an amended disclosure, in writing, setting forth such disclosures. Notwithstanding the foregoing, Seller's amended disclosure shall not be required for any adverse conditions or material inaccuracies that Buyer is aware of or which are set forth in reports provided to or obtained by Buyer.

**Section 9. Property Condition, Loss or Damage.**

- A. Property is sold in AS-IS condition. Seller has no obligation to make repairs to the property. However, Seller shall deliver the property vacant, unless otherwise disclosed by Seller, and in substantially the same condition as of the Effective Date.
- B. Damage or Destruction. If the Property is destroyed or substantially damaged prior to Closing, Buyer shall have the right and option to void this contract and receive a full refund of all monies paid or Buyer may elect to complete the Closing and to receive any and all insurance proceeds paid under the Seller's insurance policy. Seller has no actual knowledge and has received no notice that the Property is not in compliance with all applicable laws governing the use and operation thereof, nor, to Seller's actual knowledge, does there exist any facts or circumstances on the Property which with notice or the passage of time would constitute such a violation.
- C. Disclaimer. Except as expressly included in this Agreement, Seller has not made, does not make and specifically disclaims any representations, warranties, promises, covenants,

agreements or guarantees of any kind or character whatsoever, whether express or implied, oral or written, past, present or future, concerning or with respect to the Property, including but not limited to the value, nature, quality, character or condition of the Property; without limiting the foregoing, Seller does not make and has not made any representation or warranty regarding the presence or absence of any hazardous substance on, under or about the Property or the compliance or non-compliance of the Property with any and all Federal, state or local environmental laws, ordinances, regulations, orders, decrees or rules regulating, relating to or imposing liability or standards of conduct concerning any hazardous substances.

D. Inspection. Buyer and Seller acknowledge and agree that [INITIAL WHICH SECTION APPLIES]:

Buyer initials: \_\_\_\_\_ Seller initials: \_\_\_\_\_

(a) This Agreement is contingent upon an inspection of the Property by Buyer or her representatives or hirees (the "Inspection Contingency") until 9 p.m. \_\_\_\_\_ days after the Effective Date (the "Inspection Deadline"), at Buyer's discretion and expense (the "Inspection"). Seller will have all utilities in service if possible given the condition of the Property.

If the results of such inspection indicate the condition of the property is worse than what was represented in the listing photos or listing description, Buyer shall provide Seller, prior to the Inspection Deadline, a written addendum listing the specific objections Buyer has to condition of the Property (the "Inspection Addendum"). The parties shall have until 9 p.m. three (3) days after Buyer's delivery of the Inspection Addendum to negotiate a mutually acceptable resolution of Buyer's objections.

If the parties are unable to reach an agreement, Buyer shall have the option to void this Agreement by delivering written notice to Seller by 9 p.m. of the third day of the period described above, otherwise the Inspection Contingency shall be removed and the Agreement will remain in full force and effect. If Buyer voids the Agreement based on the Inspection Contingency, Escrow Holder promptly shall return the earnest Money Deposit to Buyer.

OR

Buyer initials: \_\_\_\_\_ Seller initials: \_\_\_\_\_

(b) Buyer waives any right to inspect the Property, whether or not the Buyer has had the opportunity to inspect the Property or review a prior inspection report regarding the Property.

i. Buyer has conducted its own investigation and due diligence, at its own expense, in determining whether to purchase the Property. Buyer has conducted or knowingly waived any opportunity to perform or determine (i) a general physical inspection of the general condition of the property, its systems and components, (ii) an investigation of the square footage, age and boundaries of the Property, (iii) the presence of, or conditions likely to lead to the presence of wood destroying pests and organisms, (iv) soil stability, (v) water and utility availability, (vi) potential environmental hazards, (vii) susceptibility of the Property to earthquakes and flooding, (viii) the availability and cost of necessary or desired insurance for fire, hazard and other insurance, (ix) building permits, zoning and governmental requirements, (x) rental property restrictions, (xi) security and safety, and (xii) neighborhood, area, or subdivision conditions.

- ii. Buyer has relied solely upon such investigations and due diligence in determining whether to enter into this Agreement and the forthcoming Closing; if this transaction is consummated, Buyer will be purchasing the Property pursuant to Buyer's independent examination, study, inspection (if any) and knowledge of the Property.
- iii. Seller is not liable to Buyer nor bound in any manner by verbal or written statements, representations, or information pertaining to the Property, or the operation thereof, furnished by any person.
- iv. Buyer releases and waives any and all claims, liabilities and losses against Seller with regard to any and all representations and warranties made with regard to the Property.
- v. Buyer is relying solely upon its own inspections, investigations, research, analyses and determination of the value and condition of the Property in entering into this Agreement and is not relying in any way upon any representations or warranties (except those expressly provided in this Agreement), statements, plans, specifications, cost estimates, studies, reports, descriptions, other information or materials furnished by Seller, or any of its representatives, to Buyer or its representatives, whether oral or written, express or implied, of any nature whatsoever regarding any such matters.
- vi. Buyer further acknowledges and agrees that any references by Seller regarding square footage, dimensions or area measurements for land or improvements thereon are approximate and were provided by Seller without representation to their accuracy. Buyer acknowledges and agrees that verification or determination of the accuracy of such information is the responsibility of Buyer.

B. Personal Property. The Parties agree that any personal property on or in the Property as of the Closing shall constitute the personal property that will be included in the Purchase Price and conveyed to Buyer at Closing.

C. **AS IS**. BUYER ACKNOWLEDGES AND AGREES THAT, TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE SALE OF THE PROPERTY IS MADE IN "AS IS, WHERE IS" CONDITION AND ON A WITH ALL FAULTS BASIS. THE OCCURRENCE OF THE CLOSING WILL CONSTITUTE AN ACKNOWLEDGMENT BY BUYER THAT THE PROPERTY WAS ACCEPTED WITHOUT REPRESENTATION OR WARRANTY, STATUTORY, EXPRESS OR IMPLIED, AND OTHERWISE IN AN "AS IS, WHERE IS, AND WITH ALL FAULTS" CONDITION BASED SOLELY ON BUYER'S OWN INSPECTION THEREOF, IF ANY, AND IN ACCORDANCE WITH ANY REVIEW OF THE PROPERTY CONDUCTED BY BUYER. THE SALE OF THIS PROPERTY IS NOT CONTINGENT UPON THE BUYER OBTAINING A CERTIFICATE OF OCCUPANCY.

D. **RELEASE**. BUYER HEREBY RELEASES SELLER, LENDINGHOME AND ANY SERVICER, AGENT, REPRESENTATIVE, MANAGER, AUCTIONEER, BROKER, AFFILIATE, OFFICER, PARTNER, SHAREHOLDER OR EMPLOYEE OF SELLER (THE "RELEASEES") FROM ALL CLAIMS, LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES WHICH BUYER OR ANY PARTY RELATED TO OR AFFILIATED WITH BUYER HAS OR MAY HAVE ARISING FROM OR RELATED TO ANY MATTER OR THING RELATED TO THE PHYSICAL CONDITION OF THE PROPERTY, ANY CONSTRUCTION DEFECTS, ANY ERRORS OR OMISSIONS IN THE DESIGN OR CONSTRUCTION OF THE PROPERTY AND ANY ENVIRONMENTAL CONDITIONS AT, IN, ON OR UNDER THE PROPERTY, AND BUYER WILL NOT LOOK TO ANY RELEASEE IN CONNECTION WITH THE FOREGOING FOR ANY REDRESS OR RELTEF.

- E. **SURVIVAL. THE ACKNOWLEDGMENTS AND AGREEMENTS OF BUYER SET FORTH IN THIS SECTION 9 WILL SURVIVE THE CLOSING.**
- F. **PERSONAL PROPERTY; INTANGIBLE PROPERTY. SELLER MAKES NO REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, AS TO SELLER'S TITLE TO THE PERSONAL PROPERTY OR THE INTANGIBLE PROPERTY, IF ANY.**

**Section 10. Condemnation.** If, prior to or during the Closing, all or any material part of the Property shall be condemned by governmental or other lawful authority, Buyer shall have the option of: (a) completing the purchase, in which event all condemnation proceeds or claims thereof shall be assigned to Buyer, or (b) terminating this Agreement, in which event this Agreement shall be terminated, and this Agreement shall then be deemed null and void, none of the parties hereto shall then have any further obligation to any other party hereto or to any third party, and the Seller shall return the Earnest Money Deposit in full to the Buyer.

**Section 11. Risk of Loss.** All risk of loss or damage to the Property by fire, windstorm, casualty or other cause is assumed by Buyer on the date of Closing.

**Section 12. Default by Buyer.**

- A. **LOSS OF EARNEST MONEY DEPOSIT: IT IS REALIZED BY THE PARTIES THAT IT WOULD BE EXTREMELY DIFFICULT AND IMPRACTICABLE, IF NOT IMPOSSIBLE, TO ASCERTAIN WITH ANY DEGREE OF CERTAINTY THE AMOUNT OF DAMAGES WHICH WOULD BE SUFFERED BY SELLER IN THE EVENT THAT THE CLOSING FAILS TO OCCUR DUE TO BUYER'S DEFAULT UNDER THIS AGREEMENT. THEREFORE, IN THE EVENT THAT THE CLOSING FAILS TO OCCUR DUE TO BUYER'S DEFAULT UNDER THIS AGREEMENT, SELLER SHALL BE ENTITLED TO RETAIN THE ENTIRE AMOUNT OF THE EARNEST MONEY DEPOSIT (INCLUDING, WITHOUT LIMITATION, ANY PORTIONS OF THE EARNEST MONEY DEPOSIT THAT WERE PREVIOUSLY RELEASED TO SELLER, ANY PORTIONS OF THE EARNEST MONEY DEPOSIT THAT ARE IN ESCROW AND REFUNDABLE TO BUYER AND ANY PORTIONS OF THE EARNEST MONEY DEPOSIT THAT ARE IN ESCROW AND NON REFUNDABLE TO BUYER) AS LIQUIDATED DAMAGES WHICH (SUBJECT TO SECTION 12.B HEREOF) SHALL BE SELLER'S SOLE REMEDY HEREUNDER BY REASON OF SUCH DEFAULT. THE DAMAGES PROVIDED FOR IN THIS SECTION 12.A SHALL CONSTITUTE "LIQUIDATED DAMAGES." THE PARTIES HERETO EXPRESSLY AGREE AND ACKNOWLEDGE THAT THE AMOUNT OF THE LIQUIDATED DAMAGES REPRESENTS THE PARTIES' REASONABLE ESTIMATE OF SELLER'S DAMAGES IN THE EVENT OF SUCH DEFAULT BY BUYER. THE PARTIES ACKNOWLEDGE THAT THE PAYMENT OF SUCH LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY WITHIN THE MEANING ASCRIBED BY APPLICABLE LAW, BUT IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO SELLER FOR ALL PURPOSES UNDER APPLICABLE LAW. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, BUYER AND SELLER EXPRESSLY AGREE THAT THE FOREGOING LIQUIDATED DAMAGES PROVISION IS NOT INTENDED TO DEFINE OR LIMIT ANY INDEMNITY LIABILITY OF BUYER TO SELLER UNDER THIS AGREEMENT OR SELLER'S RIGHTS WITH RESPECT TO THE PAYMENT OF ATTORNEYS' FEES, COSTS AND EXPENSES HEREUNDER.**

**BUYER INITIALS: \_\_\_\_\_ SELLER INITIALS: \_\_\_\_\_**

- B. If Buyer shall default in Buyer's obligations under this Agreement and shall fail to cooperate fully in the immediate cancellation of escrow and the payment to Seller of the Earnest Money Deposit as liquidated damages (including, without limitation, if Buyer commences an action for specific performance of this Agreement and/or records a lis pendens against the Property), then notwithstanding the parties' agreement to limit damages to liquidated damages, if Seller is the prevailing party in such dispute, then Seller shall be entitled to recover its actual damages (and Seller shall not be limited to liquidated damages).

**Section 13. Default by Seller.** If Seller materially defaults on its pre-closing obligations under this Agreement and Seller fails to cure such default within **Five (5) Days After** receiving written notice of such default, or if such default is not reasonably susceptible of being cured within such Five (5) Day period, then if Seller fails to commence to cure such default within such period (provided the Closing shall be extended day-for-day as necessary to accommodate Seller's cure period), and thereafter diligently prosecute to cure such default, then this Agreement and the escrow may be terminated by Buyer. Buyer shall immediately give written notice of such termination to Escrow Holder and Seller, and Escrow Holder shall return to the parties all documents, instruments and funds (including the Earnest Money Deposit) to the party depositing the same. The foregoing is Buyer's sole remedy in the event of an uncured, pre-closing default by Seller. If Buyer elects to terminate this Agreement in such case, then, other than as expressly set forth in this Section, Seller and its affiliates shall not have any further liability whatsoever to Buyer under this Agreement, and, other than as expressly set forth in this Section, Buyer shall be deemed to release Seller and its affiliates from any and all actions, litigation, causes of action, proceedings, charges, claims, costs, damages, demands, rights, defenses, suits, disbursements, expenses (including attorneys' fees, expert fees, costs of court and expenses incurred), fines, judgments, obligations, liabilities, liens, losses, compensation or penalties of every kind and nature whatsoever, known or unknown, foreseen or unforeseen, that may at any time be imposed, incurred, asserted or awarded, including, without limitation, for loss of business or indirect, special, consequential, incidental or exemplary damages, diminution in value of the Property arising from the condition of the Property, or lost profits, that Buyer and any person or entity claiming by, through or under Buyer, may now have or hereafter acquire against Seller and/or any Seller's affiliates, arising from or related to this Agreement or the Property.

**Section 14. Assignment.** This Agreement may NOT be assigned to any third party by the Buyer.

Buyer initials: \_\_\_\_\_

**Section 15. Equal Housing Opportunity.** The Property is being sold in compliance with Federal, state and local anti-discrimination laws.

**Section 16. Costs.** Except as otherwise specified in this Agreement, each party hereto shall pay all of its own costs and expenses incurred in connection with the transactions contemplated hereunder, including, without limitation, any fees and costs of its accountants and counsel.

**Section 17. Notices.** All demands, notices and communications hereunder shall be in writing and shall be deemed to have been duly given when mailed, by registered or certified mail, return receipt requested, or by overnight courier, or if faxed or other electronic communications, in any case when received by the other party or parties. Any such demand, notice or communication hereunder shall be deemed to have been received on the date delivered to or received at the premises of the addressee (as evidenced, in the case of registered or certified mail, by the date noted on the return receipt). Notice for any party may be given by its respective counsel. Notices shall be directed to the following addresses (or such other addresses as may hereafter be furnished to the other party by like notice):

**To Seller:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Email \_\_\_\_\_

Phone \_\_\_\_\_

Fax \_\_\_\_\_

**To Buyer:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Email \_\_\_\_\_

Phone \_\_\_\_\_

Fax \_\_\_\_\_

**To Escrow Holder:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Email \_\_\_\_\_

Phone \_\_\_\_\_

Fax \_\_\_\_\_

**Section 18. Entire Agreement.** This Agreement contains and incorporates all representations by and between Buyer and Seller. This is the entire agreement between Seller and Buyer, and there are no other terms, conditions, promises, undertakings, statements or representations, expressed or implied, concerning the sale contemplated by this Agreement.

**Section 19. Modification.** The terms of this Agreement may not be amended or waived orally, but only by an instrument in writing signed by both Seller and Buyer. A copy of any amendment that affects any term in this Agreement for which Escrow Holder is responsible shall be delivered to Escrow Holder within **Three (3) Days After** mutual execution of such amendment.

**Section 20. Counterparts.** This Agreement may be executed and delivered in any number of counterparts, each of which so executed and delivered shall be deemed to be an original and all of which shall constitute one and the same instrument. This Agreement may be signed and transmitted by either party through various electronic methods that may include: FAX, email, e-sign or other types of electronic formats.

**Section 21. Severability of Provisions.** Any part, provision, representation, warranty or covenant in this Agreement that is prohibited or unenforceable or is held to be void or unenforceable in any particular jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. To the extent permitted by applicable law, the parties hereto waive any provision of law which prohibits or renders void or unenforceable any provision hereof.

**Section 22. Captions.** The captions and paragraph headings contained herein are for convenience only and shall not be used in construing or enforcing any of the provisions of this Agreement.

**Section 23. Exhibits.** The exhibits to this Agreement (if any) are hereby incorporated and made a part hereof and are an integral part of this Agreement.

**Section 24. Successors.** This Agreement shall inure to the benefit of and bind the parties hereto and their respective successors by operation of law. This Agreement cannot be assigned by the Buyer to any party.

**Section 25. Governing Law and Choice of Forum.** This Agreement shall be construed in accordance with and governed by the internal laws of the state where the Property is located, without giving effect to any “conflict of law” rules of such state. Buyer and Seller each acknowledge and agree that the Superior Court of the State where the Property is located in and for the county where the Property is located and the associated federal and appellate courts shall have exclusive jurisdiction to hear and decide any dispute, controversy or litigation regarding the enforceability or validity of this Agreement or any portion thereof.

**Section 26. Attorney’s Fees.** In the event of litigation or other proceeding in connection with or arising out of this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party its reasonable attorneys’ fees and costs.

**Section 27. Time of Essence. TIME IS OF THE ESSENCE** with respect to each and every provision of this Agreement. Whenever any action must be taken (including the giving of notice or the delivery of documents) under this Agreement during a certain period of time (or by a particular date) that ends (or occurs) on a weekend or Federal holiday, then such period (or date) shall be extended until the next succeeding business day.

**Section 28. Patriot Act.** Buyer is not, and will not be, a person or entity with whom Seller or LendingHome is restricted from doing business under the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, H.R. 3162, Public Law 107 56 (commonly known as the “USA Patriot Act”) and Executive Order Number 13224 on Terrorism Financing, effective September 24, 2001 and regulations promulgated pursuant thereto (collectively, the “Anti-Terrorism Laws”), including, without limitation persons and entities named on the Office of Foreign Asset Control Specially Designated Nationals and Blocked Persons List.

**Section 29. Non-Foreign Seller.** Seller represents that at the time of acceptance of this Agreement and at the time of Closing, Seller is not a “foreign person” as such term is defined in the Foreign Investments in Real Property Tax act of 1980 (26 USC Section 1445(f) et. Sec) (“FIRPTA”). At the Closing, and as a condition thereto, in order to avoid required withholding, Seller shall furnish to Buyer an affidavit, in a form and substance acceptable to Buyer, signed under penalty of perjury containing Seller’s United States Social Security and/or taxpayer identification numbers and a declaration to the effect that Seller is not a foreign person within the meaning of the federal (FIRPTA) and any withholding laws applicable to the state where the Property is located.

**Section 30. Terms and Conditions of LendingHome Property Marketplace.** The Buyer is also subject to the terms and conditions of the Real Estate Referral Agreement – Buyer between Buyer and LendingHome (the “Buyer Agreement”). The Buyer Agreement is hereby acknowledged by Buyer and incorporated herein by this reference as fully as if copied herein verbatim. To the extent that any term or condition of the Buyer Agreement may be in conflict with this Agreement, it is the intention of the Buyer and Seller that this Agreement shall control.

**Section 31. Other Terms and Conditions (if any):**

**BUYER AND SELLER ACKNOWLEDGE AND AGREE THAT NOTWITHSTANDING ANYTHING TO THE CONTRARY INCLUDED IN THIS AGREEMENT, LENDINGHOME (1) IS NOT REPRESENTING, AND SHALL NOT BE DEEMED TO REPRESENT, BUYER OR SELLER AS A BROKER, AGENT, FIDUCIARY OR IN ANY OTHER CAPACITY IN THE TRANSACTION CONTEMPLATED IN THIS AGREEMENT, (2) HAS NO DUTIES OR OBLIGATIONS TO EITHER BUYER OR SELLER UNDER THIS AGREEMENT AND (3) SHALL HAVE NO LIABILITY (WHETHER IN TORT, CONTRACT OR EQUITY) UNDER THIS AGREEMENT.**

**IN WITNESS HEREOF**, this Agreement includes ALL pages of this Purchase and Sale Agreement, including any addenda, modifications, amendments or riders hereto. Buyer and Seller agree that the Effective Date of this Agreement shall be the date the Seller executes this Agreement.

**Date of Seller's Signature:** \_\_\_\_\_

**SELLER:**

Entity \_\_\_\_\_

Signature \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

**BUYER:**

Entity \_\_\_\_\_

Signature \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

*LendingHome makes no representation or warranty regarding the use or enforceability of this Purchase and Sale Agreement template when used on transactions not closing via the LendingHome Property Marketplace and in which LendingHome is involved neither as a party nor facilitator. Please consult with your own legal counsel if you intend to use this template to document transactions outside the marketplace.*

**[REMAINDER OF PAGE INTENTIONALLY BLANK.]**

**Exhibit A**

Residential 1 – 4 units (including PUDs and Condos)

1. Federal and State Specific Disclosures. Prior to the Effective Date of the Agreement to which this **Exhibit A** is attached, LendingHome Property Marketplace has made available Federal and state specific required disclosures on its [website](#), all of which Buyer and Seller acknowledge and agree have been delivered and/or received, as applicable.

Buyer Initials \_\_\_\_\_

Seller Initials \_\_\_\_\_

2. Local Disclosures. Prior to the Effective Date of the Agreement to which this **Exhibit A** is attached, Seller has delivered to Buyer all locally required disclosures, if any, (all of which Buyer acknowledges and agrees has been received).

3. For California Only: Buyer’s Cancellation Right. If any material disclosure identified in this **Exhibit A** or in the Agreement or in the LendingHome website, or if any subsequent or amended material disclosure, is delivered to Buyer after Buyer signs the Offer, then Buyer shall have the right to cancel the Agreement within 5 Days After Buyer’s personal receipt of such subsequent material disclosure or amended disclosure.

4. Title Commitment/Report and Exceptions. Buyer acknowledges that whether it has had an opportunity to review a Title Commitment/Report prior to the Effective Date or not, the only allowable objection to title issues or exceptions shown on any Title Commitment/Report will be the Seller’s inability to deliver insurable title.