

## ADDENDUM TO CONTRACT

THIS ADDENDUM is made a part of that certain Agreement for Purchase and Sale of Real Estate, executed by and between \_\_\_\_\_ , as "Seller," and \_\_\_\_\_ , as "Buyer," dated \_\_\_\_\_ , 20 \_\_\_\_ , and forms a part hereof.

1. This Addendum is executed contemporaneously with the above described Agreement for Purchase and Sale of Real Estate.
2. **Seller's Representations and Warranties.** Seller represents and warrants to Buyer the following as of the date hereof:
  - (a) **Title.** Buyer will acquire hereunder good, marketable and insurable title to, and the entire right, title and interest in, the Property, free and clear of all liens, encumbrances, liabilities, agreements, leases, judgments, claims, rights, easements, restrictions, and other matters affecting title, except for the permitted exceptions, the tenant leases and the continuing contracts.
  - (b) **Consents.** Seller has obtained or prior to the closing date Seller shall obtain all consents and permissions related to the transactions herein contemplated and required under any covenant, agreement, encumbrance, law or regulation.
  - (c) **Utilities; Access.** The Property has adequate water supply, storm and sanitary sewage facilities, telephone, electricity, fire protection, means of ingress and egress to and from public highways at the existing curb cuts and, without limitation, other required public utilities.
  - (d) **Soil Conditions; Encroachments; Flood and Mudslide Hazards.** To the best knowledge of Seller: (1) there are no soil conditions adversely affecting the Property; (2) the building does not encroach onto adjoining land or onto any easements, and there are no encroachments of improvements from adjoining land onto the Property; (3) the location of the building does not violate any applicable setback requirements; and (4) the land is not in an area identified by an agency or department of the federal government as having special flood or mudslide hazards.
  - (e) **Hazardous Substances.** Seller has not utilized the Property, nor any part hereof, to treat, deposit, store, dispose of, or place any hazardous substances, as defined by 41 USCA Section 9601(14); nor has Seller authorized any other person or entity to treat, deposit, store, dispose of or place any hazardous substance, as defined above, on the property, or any part thereof; and to the best knowledge of Seller, no other person or entity has treated, deposited, stored, disposed of, or placed any hazardous

substance, as defined on the Property; or any part thereof. In the event a release or threatened release of a hazardous substance is discovered on the Property, regardless of whether the Seller was in any way responsible for such release, which subjects the Buyer to liability, in any form whatsoever, under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USCA Section 9607, or under any other statutory or common law, Seller agrees to indemnify and hold harmless Buyer from any such liability which may be imposed.

**(f) Construction; Use; Occupancy.**

- i. Completion; Operation. At the time of execution of this Agreement, the building located on the Property is not built, and will not be completed prior to closing. The Seller is warranting the completion of the project according to the plans and specifications attached and which are acceptable to the Tenant. The manner of construction of the building shall be completed in a good, workmanlike and substantial manner, free from material defects, operated at all times in accordance with the Project Plans and Specifications as approved, the same to fully comply with all federal, state and local laws, ordinances, rules, regulations and orders in existence on or before the date of Closing.
- ii. Licenses, Permits, Certificates of Occupancy, Zoning, etc. (a) All building permits, certificates of occupancy, all other notices, licenses, permits, certificates and authority, including notification of the completion of all punch list items to the satisfaction of the Buyer, required in connection with the construction, use or occupancy of the Property shall be delivered to the Buyer prior to closing; (b) valid and final certificates of occupancy will be issued for the building and each part and portion thereof (except those tenant spaces for which, under the laws of the State of \_\_\_\_\_, only the tenant can obtain the certificates of occupancy), Seller hereby representing and warranting to the best of its knowledge that such certificates of occupancy have been obtained by such tenant(s), and no space has been or will have been as of the closing date leased in violation of any such certificates.
- iii. Notices; Requests. Seller has received no notice of knowledge that any government agency or any employee or official thereof considers the construction on the Property or the operation or use of the same have failed to comply with any law, ordinance, regulation or order or that any investigation has been commenced or is contemplated respecting any such possible failure of compliance. There are no unsatisfied expenses or invoices for repairs, restorations or improvements from any person, entity or authority, including, but not limited to, any tenant, lender, insurance carrier or government authority.

- iv. Maintenance; HVAC. The Property and each part and portion thereof are in good condition and repair, the structure of the building is sound and in all respects adequate for its present tenancies. Seller will maintain its repair between the Date hereof and the closing date. The heating and air conditioning systems are in good condition and working order and adequate in quantity and quality for all requirements of the existing tenancies.
  - v. Liens. Seller shall keep the Property at all times on or before the Closing Date, free and clear of all liens, claims or demands (including, but not limited to, mechanic's liens) in connection with work performed on the Property or any portion thereof and materials provided in connection with such work, where such work was performed on the Property or any portion thereof and materials provided in connection with such work, where such work was performed or such materials were provided on or before the closing date; provided, however, that in the event of the filing of any such lien, Seller, within thirty (30) days after the notice of filing of the same, shall secure the release of the same by bonding or other appropriate means. Without limitation upon the foregoing, Seller shall pay, at or before the time the same shall be due, all assessments, bonds and special assessments which constitute a lien or encumbrance against the Property as of the closing date.
3. **Right of Set-Off.** In the event that any representation herein should prove, for any reason, to be untrue, Buyer reserves the right, in Buyer's own exclusive discretion, to set-off and otherwise deduct from the balance of the Promissory Note that the Buyer Shall give Seller as partial payment of the purchase price at closing, any damage or injury that Buyer shall sustain. For said purpose, the Buyer may elect to either deduct said amount for damage or injury from the outstanding balance of the Promissory Note or, in the Buyer's discretion, from the sequential monthly payments thereunder which shall be necessary for the purpose of satisfying said amount. In the event that Seller objects to said set-off, Seller shall have the right, within twenty-one (21) days from the date of formal notification by Buyer that Buyer elects to exercise said right of set-off to file an action for declaratory relief challenging Buyer's purported attempted to so exercise the right granted by this paragraph.
4. With the exception of the provisions contained herein, the Agreement shall remain on its face fully enforceable and otherwise deemed unmodified.

Initials:

Seller \_\_\_\_\_

Buyer \_\_\_\_\_