

CONTRACT FOR CONDITIONAL SALE OF REAL ESTATE

THIS CONTRACT, made and entered into by and between **Miguel Marquez**, (hereinafter called "Seller") and **Jesus Frausto** (hereinafter called "Buyer")

WITNESSETH:

Seller hereby agrees to and does sell to Buyer, and Buyer hereby agrees to and does purchase from Seller, the following described real estate (including any improvements located thereon) in Lake County, Indiana, (hereafter called the "Real Estate") :

5616 S. Alice
Hammond, Indiana

upon the following covenants, terms and conditions:

SECTION 1. THE PURCHASE PRICE AND MANNER OF PAYMENT.

1.01. **THE PURCHASE PRICE.** As the purchase price for the Real Estate, Buyer agrees to pay to Seller and Seller agrees to accept from Buyer the sum of Forty Seven Thousand Dollars (\$47,000.00).

1.02. **MANNER OF PAYMENT.** Seller acknowledges receipt of Eight Thousand Dollars (\$8,000.00) deposit. The balance shall be paid in Forty-eight (48) consecutive monthly installments in the amount of Eight Hundred Twelve and 50/100 (\$812.50) Dollars beginning the 19th day of November, 2008. Subsequent installments shall be paid on the same day of each month (with a 14 day grace period) thereafter until the balance shall be paid in full. All payment made in a timely manner shall accrue no interest. Any late payments shall bear interest at the rate of eight (8%) per cent per annum.

SECTION 2. PREPAYMENT OF PURCHASE PRICE.

2.01. Buyer shall have the privilege of paying without penalty, at any time, any sum or sums in addition to payments herein required.

SECTION 3. TAXES, ASSESSMENTS, AND INSURANCE.

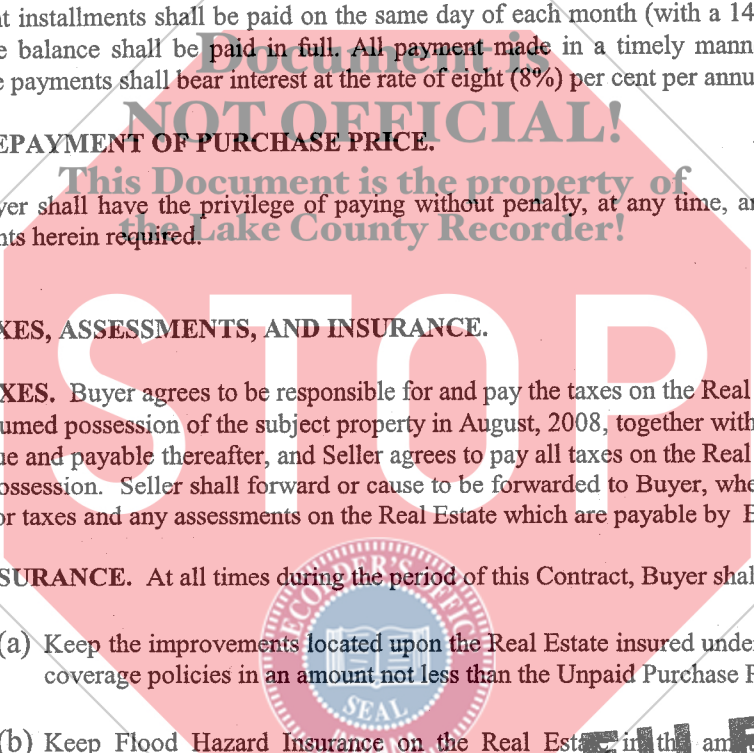
3.01. **TAXES.** Buyer agrees to be responsible for and pay the taxes on the Real Estate pro-rated to the date Buyer assumed possession of the subject property in August, 2008, together with all installments of real estate taxes due and payable thereafter, and Seller agrees to pay all taxes on the Real Estate due prior to Buyer assuming possession. Seller shall forward or cause to be forwarded to Buyer, when received, a copy of all statements for taxes and any assessments on the Real Estate which are payable by Buyer hereunder.

3.02. **INSURANCE.** At all times during the period of this Contract, Buyer shall:

- (a) Keep the improvements located upon the Real Estate insured under fire and extended coverage policies in an amount not less than the Unpaid Purchase Price, and
- (b) Keep Flood Hazard Insurance on the Real Estate in the amount of the Unpaid Purchase Price or the highest amount available if less than the Unpaid Purchase Price if, the Real Estate is located in a Flood Hazard Zone as shown by a current certificate

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STATE OF INDIANA
LAKE COUNTY
RECORDER
A. BROWN
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LAKE COUNTY AUDITOR

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of survey according to the maps in the office of the County Surveyor, unless such insurance coverage is waived in writing by the Seller, and

- (c) Keep standard liability insurance with coverages in amounts not less than One Hundred Thousand Dollars (\$100,000.00) per person and Three Hundred Thousand Dollars (\$300,000.00) per occurrence, and
- (d) Pay premiums on such insurance policies as they become due and provide Seller with written proof of such insurance coverage annually and as Seller may reasonable request. Such policies or insurance shall be issued in the name of the Seller and Buyer, as co-insureds.

Except as otherwise agreed hereafter in writing, Buyer shall not enter into the settlement of any insurance claim covered under the foregoing insurance policies without the written consent of Seller. Any insurance proceeds received as payment for any loss of, or damage to the Real Estate covered by said insurance, shall be applied to the restoration and repair of the loss or damage. All restoration and repairs shall be performed in accordance with all state and local building codes and shall meet the quality of the improvements pre-existing and loss or damage and all work shall be performed by a duly licensed contractor. Notwithstanding the above provisions, if there exists an uncured Event of Default by Buyer under this Contract on the date of receipt of such proceeds, the proceeds may be applied, at Seller's option, toward pre-payment of the Unpaid Purchase Price, with any excess to be paid to the Buyer.

3.03. RIGHTS OF PARTIES TO PERFORM OTHER'S COVENANTS.

- (a) If one of the parties hereto (hereinafter called "Responsible Party") fails to perform any act or to make any payment required by this Section 3, the other party (hereinafter called "Nonresponsible Party") shall have the right at any time and without notice, to perform any such act or to make any such payment, and in exercising such right, to incur necessary and incidental costs and expenses, including attorney fees. Nothing in this provision shall imply any obligation on the part of the Nonresponsible Party to perform any act or to make any payment required of the Responsible Party under the terms of this Contract.
- (b) The exercise of such right by a Nonresponsible Party shall not constitute a release of obligation of the Responsible Party under this Section 3 or a waiver of any remedy available under this Contract; nor shall such exercise constitute an estoppel to the exercise by a Nonresponsible Party of any right or remedy of his for a subsequent failure by the Responsible Party to perform any act to make any payment required by him under this Section 3.
- (c) Payments made and all costs and expenses incurred by a Nonresponsible Party in connection with the exercise of such right shall, at his option, either (i) be paid to him by the Responsible Party within thirty (30) days after written demand therefore; or (ii) on the date the next installment payment is due under this Contract, following written notice, be added to the Unpaid Purchase Price, if Buyer is the Responsible Party, or applied to reduce the Unpaid Purchase Price, if Seller is the Responsible Party.
- (d) In the event a Nonresponsible Party makes any such payments or incurs any such cost and expenses, the amount thereof shall bear interest at the rate provided under Section I of this Contract, from the respective dates of making the same, until paid in full, or to the date such amounts are added to, or applied against, the Unpaid Purchase Price.

SECTION 4. POSSESSION.

4.01. **DELIVERY OF POSSESSION.** Buyer assumed possession of the Real Estate in August, 2008.

SECTION 5. EVIDENCE OF TITLE.

5.01. If Buyer is not in default under this Contract, Seller will furnish Buyer an Owner's title insurance policy disclosing marketable title to the Real Estate to a date which is the earlier of (a) date after execution of this Contract specified by Buyer in a notice to seller or (b) a date 60 days prior to the date the final payment under this Contract is due.

5.02. **TITLE INSURANCE.** A title insurance policy furnished under this Contract shall be in the amount of the purchase price and shall be issued by an insurer satisfactory to the Buyer.

5.03. **ADDITIONAL TITLE EVIDENCE.** Any additional title evidence shall be at the expense of Buyer, provided, however, that the cost of additional title evidence necessitated by acts or omission of Seller shall be borne by Seller.

5.04. **CONVEYANCE OF TITLE.** Seller covenants and agrees that upon the payment of all sums due under this Contract and the prompt and full performance by Buyer of all covenants and agreements herein made, Seller will convey or cause to be conveyed to Buyer, by Warranty Deed, the above described Real Estate, subject to restrictions and easements of record as of the date of this Contract and all taxes and assessments which are Buyer's obligations.

SECTION 6. EXISTING MORTGAGE.

6.01. **ENCUMBRANCE.** Seller represents that the Real Estate is not encumbered with a Loan.

SECTION 7. ASSIGNMENT OF CONTRACT OR SALE OF INTEREST IN REAL ESTATE.

7.01. If all or any part of the Real Estate, Buyer's interest therein or Buyer's interest in this Contract is sold or assigned without Seller's prior written consent, the Unpaid Purchase Price, with accrued, but unpaid interest and all other sums due here under shall be due and payable immediately, at Seller's option. No assignment or sale shall operate to relieve either party from liability hereon.

SECTION 8. USE OF REAL ESTATE BY BUYER; SELLER'S RIGHTS TO INSPECT.

8.01. **USE.** The Real Estate may be leased or occupied by persons other than Buyer without prior written consent of Seller.

8.02. **IMPROVEMENTS.** Buyer may materially alter, change, or remove any improvements now or hereafter located on the Real Estate, or make any additional improvements, only with prior written consent of Seller, which consent shall not be unreasonably withheld. Buyer shall not create, or allow any mechanics, laborers, materialmen, or other creditors of Buyer or an assignee of Buyer to obtain, a lien or attachment against Seller's interest herein. Buyer agrees that the Real Estate and any improvements thereon are, as of the date of this Contract, in good condition, order and repair, and Buyer shall, at his own expense, maintain the Real Estate and any improvements in as good order and repair as they are in on the date of this Contract, ordinary wear and tear, and acts

of God, or public authorities excepted. Buyer shall not commit waste on the Real Estate, and, with respect to occupancy and use, shall comply with all laws, ordinances, and regulations of any governmental authority having jurisdiction thereof.

8.03. **INSPECTION.** Seller shall have the right to enter and inspect the Real Estate at any reasonable time.

8.04. **BUYER'S RESPONSIBILITY FOR ACCIDENTS.** Buyer assumes all risk and responsibility for injury or damage to person or property arising from Buyer's use and control of the Real Estate and any improvements thereon.

8.05. **ENVIRONMENTAL REPRESENTATIONS, WARRANTIES, AND COVENANTS OF PARTIES.** The Parties make the following representations, warranties, and covenants:

- (a) Seller warrants and represents to the best of his knowledge, there do not currently exist, and Buyer warrants, represents, and covenants there will not exist during the term of this Contract, any actual or potential contamination of the soil, subsoil, groundwater, or any other portion of the Real Estate by any hazardous or toxic substance or their constituents, or any underground tanks on the Real Estate (other than for the use of heating oil for use and consumption of Buyer on the Real Estate).
- (b) Seller warrants and represents to the best of his knowledge, Seller and Seller's predecessors in title have complied at all times with all applicable federal, state, and local environmental laws and regulations including, without limitation, the Indiana Responsible Property Transfer Law ("IRPTL") (IC 13-25-3) as amended, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. Section 9601, et seq.) as amended, the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901, et seq.) as amended, the Toxic Substances Control Act (15 U.S.C. Section 2601, et seq.) as amended, and all regulations under them, and any other federal statute or any state statute and any municipal ordinance creating liability for treatment, storage, disposal, arranging, or existence on the Real Estate of any hazardous or toxic substance, including their constituents. ("Environmental Laws")
- (c) Buyer covenants to comply at all times during the term of this Contract with all Environmental Laws.
- (d) Seller warrants and represents to the best of Seller's knowledge, no environmental filings have been made concerning the Real Estate with any governmental agency.
- (e) Each of the parties indemnifies the other against, and holds the other harmless from, any claim, action, loss, damage, liability, cost, or expenses (including attorney fees and all reasonable environmental testing expense such party incurs as a result of the other party's breach of any representation, warranty, or covenants made in this Section 8.05)

8.06. **INDEMNIFICATION.** In addition to the provision of Section 8.05, Buyer agrees to indemnify and save harmless Seller from and against any and all claims, liability, damage, costs, or expense which Seller may incur by reason of the Buyer's use or occupancy of the Real Estate, or arising out of any act of the Buyer, Buyer's agents, licensees, and invitees.

SECTION 9. BUYER'S DEFAULT AND SELLER'S REMEDIES.

9.01. **TIME.** Time is of the essence of this Contract.

9.02. **BUYER'S DEFAULT.** Upon the occurrence of any Event of Default, as hereinafter defined, Seller shall have the right to pursue immediately any remedy available under this Contract as may be necessary or appropriate to protect Seller's interest under this Contract and in the Real Estate.

9.03 **EVENT OF DEFAULT.** The following shall each constitute an Event of Default for purposes of this Contract:

- (a) Failure by Buyer for a period of sixty (60) days to pay any payments required to be made by Buyer to Seller under this Contract when and as it becomes due and payable.
- (b) Causing or permitting by Buyer of the making of any levy, seizure, or attachment of the Real Estate or any part thereof.
- (c) Occurrence of an uninsured loss with respect to the Real Estate or any part thereof.
- (d) Institution of insolvency proceedings against Buyer, or the adjustment, liquidation, extension or composition or arrangement of debt of Buyer or for any other relief under any insolvency law relating to the relief of debtors; or, Buyer's assignment for the benefit of creditors or admission in writing of his inability to pay his debts as they become due; or, administration by a receiver or similar officer of any of the Real Estate.
- (e) Desertion or abandonment by Buyer of any portion of the Real Estate.
- (f) Actual or threatened alteration, demolition, waste, or removal of any improvement now or hereafter located on the Real Estate, except as permitted by Contract.

9.04. **SELLER'S REMEDIES.** Upon the occurrence of an Event of Default, Seller shall elect his remedy under Subsection 9.041 or 9.042.

9.041. Seller may declare this Contract forfeited and terminated, and upon such declaration, all right, title, and interest of Buyer in and to the Real Estate shall immediately cease and Buyer shall then be considered as a tenant holding over without permission and Seller shall be entitled to re-enter and take immediate possession of the Real Estate and to eject Buyer and all persons claiming under him, Further, Seller shall have the right to institute legal action to have this Contract forfeited and terminated and to recover from Buyer all or any of the following:

- (a) possession of the Real Estate;
- (b) any payment due and unpaid at the time of filing of the action and becoming due and unpaid from that time until possession of the Real Estate is recovered;
- (c) interest on the Unpaid Purchase Price from the last date to which interest was paid until judgment or possession is recovered by Seller, whichever shall occur first;
- (d) due and unpaid real estate taxes, assessments, charges, and penalties which Buyer is obligated to pay under this Contract.
- (e) premiums due and unpaid for insurance which Buyer is obligated to provide under this Contract.
- (f) the reasonable cost of repair of any physical damage or waste to the Real Estate other than damage caused by ordinary wear and tear and acts of God or public authorities; and
- (g) any other amounts which Buyer is obligated to pay under this Contract;

9.042. If this Subsection is applicable, then Seller may declare all of the sums secured by this Contract to be immediately due and payable, and Seller may immediately institute legal action to foreclose this Contract and Buyer's interest in the Real Estate. The parties agree that after Buyer has paid \$30,000.00 of the purchase price, then Buyer shall have substantial equity in the Real Estate.

9.05. **SELLER'S ADDITIONAL REMEDIES.** In addition to the remedies set forth above, upon the occurrence of an Event of Default, Seller shall be entitled to:

- (a) Retain (without prejudice to his right to recover any other sums from Buyer, or to have any other remedy under this Contract), as an agreed payment for Buyer's use of the Real Estate prior to the Event of Default, all payments made by Buyer to Seller and all sums received by Seller as proceeds of insurance or as other benefits or considerations pursuant to this Contract.
- (b) Request that a receiver be appointed over the Real Estate in accordance with Indiana law providing for real estate mortgage foreclosures.
- (c) Enforce any right without relief from valuation or appraisal laws.

SECTION 10. SELLER'S DEFAULT AND BUYER'S REMEDIES.

10.01. If Seller fails to convey the Real Estate as required by this Contract, Buyer may institute legal action against Seller for specific performance, in which case Seller hereby acknowledges that an adequate remedy for default in such case does not exist at law; or Buyer may pursue such other remedy as is available at law or in equity.

10.02. If, after seven (7) days notice from Buyer, Seller fails to make any payment required of him under this Contract or to perform or observe any other of his covenants or agreements, Buyer shall be entitled to institute legal action against Seller for such relief as may be available at law or in equity. Nothing in this subsection shall interfere with or affect Buyer's right to any reduction, set-off or credit to which Buyer may be entitled in the event of Seller's failure to pay amounts required of him pursuant to this Contract.


SECTION 11. GENERAL AGREEMENTS.

11.01. This Contract shall bind and insure to the benefit of, the parties and their heirs, personal, and legal representatives, successors and assigns, and shall be interpreted under the laws of the State of Indiana.

11.02. Buyer is responsible for all NIPSCO and other utility payments accrued after he assumes occupancy.

IN WITNESS WHEREOF, Seller and Buyer have executed this Contract of this 3RD day of October, 2008.


Miguel Marquez - Seller


Jesus Frausto - Buyer

*This document prepared by Attorney Thomas D. Ryan, 4704 Indianapolis Blvd.,
East Chicago, IN 46312 ~ Telephone 219-397-4000*

H.W. SOHL'S 5TH ADD. L7 BL-2

J.H.F.

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"I AFFIRM, UNDER THE PENALTIES FOR PERJURY, THAT I HAVE TAKEN REASONABLE CARE TO REDACT EACH SOCIAL SECURITY NUMBER IN THIS DOCUMENT, UNLESS REQUIRED BY LAW."

PREPARED BY: *Heinz H. Franke*

