

7

# CONTRACT FOR CONDITIONAL SALE OF REAL ESTATE

THIS CONTRACT, made and entered into by and between Benchmark Enterprises, Inc., (hereinafter called "Seller") and Claudia Sanchez-Barragan and Nimsy Itiel Cervantes-Sanchez (hereinafter called "Buyer"). Each identified individual being over eighteen (18) years of age.

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 improvement or improvements now or hereafter located on it) in Lake County, Indiana, (such real estate, including improvements, being hereinafter called the "Real Estate"):

4TH ADD. TO INDIANA HARBOR RESUB OF LOTS 16 TO 20 BL.20 & ALL OF BL.21, P.B. 5/36 LOT 32

Parcel ID Number: 45-03-21-480-012.000-024

Commonly described as 4023 Carey Street, East Chicago, IN 46312

upon the following covenants, terms and conditions:

Monthly Payment:	\$ 379.99
Escrow Amount:	\$ 150.00
<b>Total Monthly Payment:</b>	<b>\$ 529.99</b>
(For information purposes only)	

2014 FEB 24 PM 4:03  
 MICHAEL B. BROWN  
 RECORDER  
 STATE OF INDIANA  
 LAKE COUNTY  
 FILED FOR RECORD

## 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 Eighteen Thousand and No/100 Dollars (\$18,000.00).

1.02. **The Manner of Payment.** The purchase price shall be paid in the following manner:

(a) The sum of One Thousand Five Hundred and No/100 Dollars (\$1,500.00) ("Down Payment") upon the execution and delivery of this Contract leaving an unpaid balance of the purchase price in the sum of Sixteen Thousand Five Hundred and No/100 Dollars (\$16,500.00). That amount, as it is reduced by payments and expenses of Buyer properly credited under this Contract, and as it is increased by payments and expenses of Seller properly made and incurred under this Contract, is hereinafter called the "Unpaid Purchase Price".

(b) The Unpaid Purchase Price shall bear interest at the rate of Five per cent (5%) per annum. Interest at such rate shall begin to accrue from the date of this Contract, or from the date payments made and costs and expenses incurred by Seller are added to the Unpaid Purchase Price pursuant to this Contract, as may be applicable.

(c) The Unpaid Purchase Price and interest on it shall be paid in monthly installments in the amount of Three Hundred Seventy Nine and 99/100 Dollars (\$ 379.99) beginning November 20, 2013. Subsequent installments shall be paid on the same day of each month thereafter until October 20, 2017, at which time the Unpaid Purchase Price, with accrued but unpaid interest, shall be paid in full.

(d) Buyer shall have a grace period of five (5) days from the due date of any installment required under this Contract within which to pay such installment. If such installment is not actually received by Seller within the grace period, then a late charge of Thirty Five Dollars (\$35.00) shall accrue and be immediately due and payable.

(e) Buyer understands and agrees that in the event Buyer fails to make in whole any payment as required by this Contract, on the fifteenth (15<sup>th</sup>) day after such payment was due and each day thereafter a penalty of Thirty Five dollars (\$35.00) per day shall be added to the amount due and payable until such time as the entire amount of the accrued penalties, accrued late charges, and accrued payments are paid. Any extension of the time for payment shall not operate to release the liability of Buyer. Any forbearance by Seller in demanding the payment of the aforementioned penalty shall not be a waiver of or preclude the exercise of such penalty.

(f) Each installment received by Seller shall be applied: first to accrued penalties, then to accrued late charges, then to interest accrued to the due date of such installment, and then to the reduction of the Unpaid Purchase Price. Interest shall be computed monthly.

**FILED**  
 FEB 24 2014  
 PEGGY HOLINGA KATONA  
 LAKE COUNTY AUDITOR

24.00  
 Non-Comp. CASH  
 2108A PO

(g) Each payment under this Contract shall be sent to Seller at the following address: 5001 Olcott Avenue, Suite B, East Chicago, IN 46312, or at such other address as Seller shall designate in writing.

## **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 the payments herein required. It is agreed that no such prepayments, except payment in full, shall stop the accrual of interest on the amounts so paid until the next succeeding computation of interest after such payment is made. Interest shall not accrue after the date on which Buyer makes any payment that constitutes full payment of the Unpaid Purchase Price.

## **Section 3. Taxes, Assessments, Insurance, and Condemnation.**

3.01. **Taxes.** Buyer agrees to assume and pay the taxes on the Real Estate beginning with all installments payable after July 1, 2013 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 said installment. Buyer, upon written notice to Seller, and at Buyer's expense, may contest on behalf of the parties any changes in the assessed value of the Real Estate. Buyer shall provide to Seller, upon request, evidence of payment of such taxes and assessments.

3.02. **Assessments.** Buyer agrees to pay any assessments or charges upon or applying to the Real Estate for public or municipal improvements or services which, after the date of this Contract, are assessed or charged to the Real Estate.

3.03. **Penalties.** The parties hereto agree to pay any penalties, whether in the form of interest or otherwise, in connection with the late or untimely payment of such taxes, assessments or charges, for which they are responsible under this Section 3.

3.04. **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 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 reasonably request. Such policies of insurance shall be carried with a company or companies approved by Seller and legally authorized by the State of Indiana to engage in such business. Such policies of insurance shall also be issued in the name of Seller and Buyer, as coinsureds and shall provide that the insurer may not cancel or materially change coverage without at least thirty (30) days prior written notice to Seller and Buyer.

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 preexisting any 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 prepayment of the Unpaid Purchase Price, with any excess to be paid to Buyer.

3.05. **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 any 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 or 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 costs and expenses, the amount thereof shall bear interest at the rate provided under Section 1 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.

**3.06. Condemnation.** From the date hereof, Buyer shall assume all risk of loss or damage by reason of condemnation or taking of an or any part of the Real Estate for public or quasipublic purposes, and no such taking shall constitute a failure of consideration or cause for rescission of this Contract by Buyer. Should all or any part of the Real Estate be condemned and sold by court order, or sold under the threat of condemnation to any public or quasipublic body, the net amount received for the damage portion shall be retained by Buyer, and net amount received for the Real Estate value shall be paid to Seller and applied as a reduction of the Unpaid Purchase Price. The authority and responsibility for negotiation, settlement, or suit shall be Buyer's. If buyer incurs expenses for appraisers, attorneys, accountants or other professional advisers, whether with or without suit, such expenses and any other applicable costs shall be deducted from the total proceeds to calculate the "net amount" and shall be allocated proportionately between the amount determined as damages and the amount determined for value of the Real Estate. If no determination is made of separate amounts for damages and Real Estate value, then the net amount shall be divided equally between Buyer and Seller, with Seller's amount to be applied as a reduction of the Unpaid Purchase Price.

**3.07. Escrow.** At Seller's sole option, Buyer shall pay to Seller on the day monthly payments are due under this Contract until the Contract is paid in full, a sum ("Funds") for (a) yearly taxes and assessments; (b) yearly hazard or property insurance premiums; (c) yearly mortgage insurance premiums, if any, required by any mortgagee(s) of the Real Estate; and (d) any other charges applied to Seller by any mortgagee(s) of the Real Estate. These items are called "Escrow Items." Seller shall hold the Funds and apply them to pay the Escrow Items as they become due. If the amount of the Funds held by Seller at any time is not sufficient to pay the Escrow Items when due, Seller may so notify Buyer, and in such case Buyer shall pay to Seller the amount necessary to make up the deficiency.

#### **Section 4. Possession.**

**4.01. Delivery of Possession.** Seller shall deliver to Buyer full and complete possession of the Real Estate on or before execution of this Contract by all parties. All utilities shall be paid by Seller to the date possession is given.

#### **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 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 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 the acts or omissions 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. \*\*\*INTENTIONALLY REMOVED\*\*\***

#### **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 the Real Estate by Buyer; Seller's Right to Inspection.**

**8.01. Use.** The Real Estate may not 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. 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) Buyer covenants to comply at all times during the term of this Contract with all Environmental Laws that may be applicable to the Real Estate.

(c) 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.

(d) 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 expenses 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 five (5) 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) Lease or encumbrance of the Real Estate or any part thereof by Buyer, other than as expressly permitted by this Contract.
- (c) Causing or permitting by Buyer of the making of any levy, seizure or attachment of the Real Estate or any part thereof.
- (d) Occurrence of an uninsured loss with respect to the Real Estate or any part thereof
- (e) Institution of insolvency proceedings against Buyer, or the adjustment, liquidation, extension or composition or arrangement of debts of Buyer or for any other relief under any insolvency law relating to the relief of debtors; or, Buyers 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.
- (f) Desertion or abandonment by Buyer of any portion of the Real Estate.
- (g) Actual or threatened alteration, demolition, waste or removal of any improvement now or hereafter located on the Real Estate, except as permitted by this Contract.
- (h) Failure by Buyer, for a period of thirty (30) days after written notice is given to Buyer, to perform or observe any other covenant or term of this 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 (unless Subsection 9.043 is applicable).

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 reenter 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; provided, however, that this shall not be construed as allowing Seller to recover any interest which would be included under Subsection 9.041 (b) above; (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, or

9.042. Seller may declare all of the sums secured by this Contract to be immediately due and payable, and Seller may institute legal action to recover same. When all of such sums are paid to Seller, Seller shall convey or cause to be conveyed to Buyer, by Warranty Deed, the 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 obligation.

9.043. In the event Buyer has sustained equity in the Real Estate when an Event of Default occurs, then this Contract shall be considered the same as a promissory note secured by a real estate mortgage, and Seller's remedy shall be that of foreclosure in the same manner that real estate mortgages are foreclosed under Indiana law and Seller may not avail himself of the remedies set forth in Subsection 9.041 or 9.042. If this Subsection 9.043 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 TEN THOUSAND Dollars (\$10,000.00) of the purchase price (which price means the original purchase price set forth in Subsection 1.01), 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, setoff 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 inure 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. If Seller or Buyer consist or more than one person, each person signing this Contract as seller or Buyer shall be jointly and severally bound.

11.03. Headings are for reference only, and do not affect the provisions of this Contract. Where appropriate, the masculine gender shall include the feminine or the neuter, and the singular shall include the plural.

11.04. Each party is entitled to recover his reasonable attorney fees, costs, and expenses incurred by reason of enforcing his rights hereunder, including the expenses of preparing any notice of delinquency, whether or not any legal action is instituted.

11.05. For purposes of listing the Real Estate for sale by Buyer, Buyer shall be deemed to be the "fee titleholder" as this term is used in the Indiana Real Estate License Laws.

11.06. The failure or omission of either party to enforce any of his right or remedies upon any breach of any of the covenants, terms or conditions of this Contract shall not bar or abridge any of his rights or remedies upon any subsequent default.

11.07. Any notices to be given hereunder shall be in writing and deemed sufficiently given when (1) served on the person to be notified or (2) placed in an envelope directed to the person to be notified at his last known address and deposited in a United States Post Office mail box, postage prepaid.

11.08. In computing a time period prescribed in this Contract, the day of the act or event shall not be counted. All subsequent days, including intervening weekend days and holidays, shall be counted in the period.

11.09. Buyer agrees to install smoke detectors according to local code within ten days of the execution of this Contract. Buyer agrees to repair, maintain or replace the smoke detector devices including replacement of the energy source when needed.

11.10. Seller is not an insurer of Buyer's property. Buyer shall carry sufficient insurance to insure all of Buyer's property located on the Real Estate.

11.11. Buyer understands and agrees that water-beds are not allowed on the premises.

11.12. Buyer shall transfer all utilities (*i.e.* gas, electric, water) into Buyer's name and pay all utilities in a timely fashion. Failure of Buyer to pay utilities when due shall be considered a default under this Contract.

11.13. Buyer understands and agrees that no pets shall be kept on the Real Estate without the express written consent of Seller.

11.14. Buyer acknowledges receipt of the EPA information packet "Protect Your Family from Lead in Your Home" and has signed a Lead-based Paint disclosure form.

11.15. Buyer agrees to provide to Seller a current telephone number of Buyer and to notify Seller within 15 days of any change of telephone number.

\*\*\*\*\*SIGNATURE PAGE TO FOLLOW\*\*\*\*\*



