

**COMMERCIAL & INVESTMENT REAL ESTATE
PURCHASE & SALE AGREEMENT**

*This has been prepared for submission to your attorney for review and approval prior to signing.
No representation is made by licensee as to its sufficiency or tax consequences.*

Reference Date: _____ 1

_____ ("Buyer") agrees to buy and 2

Estate of R. and C. Kelly, Robert E. Kelly Jr., Executor ("Seller") agrees to sell, on the 3

following terms, the commercial real estate and all improvements thereon (collectively, the "Property") commonly 4

known as **5119 Cloverdale Place S.** 5

in the City of **Seattle**, **King** County, Washington, 6

legally described on attached Exhibit A. The Reference Date above is intended to be used to reference this 7

Agreement, and is not the date of "Mutual Acceptance," which is defined in Section 23 below. 8

1. PURCHASE PRICE. The purchase price is _____ 9

Dollars (\$ _____) payable as follows (check only one): 10

All cash at closing with no financing contingency. 11

All cash at closing contingent on new financing in accordance with the Financing Addendum (attach CBA 12
Form PS_FIN). 13

\$ _____ OR _____% of the purchase price in cash at closing with the balance of the 14
purchase price paid as follows (**check one or both, as applicable**): Buyer's assumption of the outstanding 15
principal balance as of the Closing Date of a first lien note and deed of trust (or mortgage), or real estate contract, 16
in accordance with the Financing Addendum (attach CBA Form PS_FIN); Buyer's delivery at closing of a 17
promissory note for the balance of the purchase price, secured by a deed of trust encumbering the Property, 18
in accordance with the Financing Addendum (attach CBA Form PS_FIN). 19

Other: _____ 20

2. EARNEST MONEY. The earnest money in the amount of \$ **15,000.00** 21

shall be in the form of Cash Personal check Promissory note (attached CBA Form EMN) 22

Other: **Cashiers Check Payable to First American Title and Escrow** 23

The earnest money shall be held by Selling Firm Closing Agent. Selling Broker may, however, transfer 24
the earnest money to Closing Agent. 25

Buyer shall deliver the earnest money no later than: 26

_____ days after Mutual Acceptance. 27

On the last day of the Feasibility Period defined in Section 5 below. 28

Other: **Upon signing PSA, immediately after conclusion of live auction.** 29

If the earnest money is to be held by Selling Broker and is over \$10,000, it shall be deposited to: Selling Firm's 30
pooled trust account (with interest paid to the State Treasurer) A separate interest bearing trust account in 31
Selling Firm's name. The interest, if any, shall be credited at closing to Buyer. If this sale fails to close, whoever is 32
entitled to the earnest money is entitled to interest. 33

Selling Firm shall deposit any check to be held by Selling Firm within 3 days after receipt or Mutual Acceptance, 34
whichever occurs later. Buyer agrees to pay financing and purchase costs incurred by Buyer. Unless otherwise 35
provided in this Agreement, the earnest money shall be applicable to the purchase price. 36

3. EXHIBITS AND ADDENDA. The following Exhibits and Addenda are made a part of this Agreement: 37

Exhibit A - Legal Description 38

Initials: BUYER: _____ Date: _____ SELLER: _____ Date: _____

BUYER: _____ Date: _____ SELLER: _____ Date: _____

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<input type="checkbox"/> Earnest Money Promissory Note, CBA Form EMN	39
<input type="checkbox"/> Promissory Note, LPB Form No. 28A/	40
<input type="checkbox"/> Short Form Deed of Trust, LPB Form No. 20	41
<input type="checkbox"/> Deed of Trust Rider, CBA Form DTR	42
<input type="checkbox"/> Utility Charges Addendum, CBA Form UA	43
<input type="checkbox"/> FIRPTA Certification, CBA Form 22E	44
<input type="checkbox"/> Assignment and Assumption, CBA Form PS-AS	45
<input type="checkbox"/> Addendum/Amendment, CBA Form PSA	46
<input type="checkbox"/> Back-Up Addendum, CBA Form BU-A	47
<input type="checkbox"/> Vacant Land Addendum, CBA Form VLA	48
<input type="checkbox"/> Financing Addendum, CBA Form PS_FIN	49
<input type="checkbox"/> Tenant Estoppel Certificate, CBA Form PS_TEC	50
<input type="checkbox"/> Defeasance Addendum, CBA Form PS_D	51
<input type="checkbox"/> Other: _____	52

4. **SELLER'S UNDERLYING FINANCING.** Unless Buyer is assuming Seller's underlying financing, Seller shall be responsible for confirming the existing underlying financing is not subject to any "lock out" or similar covenant which would prevent the lender's lien from being released at closing. In addition, Seller shall provide Buyer notice prior to the end of the Feasibility Period if Seller is required to substitute securities for the Property as collateral for the underlying financing (known as "defeasance"). If Seller provides this notice of defeasance to Buyer, then the parties shall close the transaction in accordance with the process described in CBA Form PS_D or any different process identified in Seller's defeasance notice to Buyer. 53 54 55 56 57 58 59

5. **FEASIBILITY CONTINGENCY.** Buyer's obligations under this Agreement are conditioned upon Buyer's satisfaction in Buyer's sole discretion, concerning all aspects of the Property, including its physical condition; the presence of or absence of any hazardous substances; the contracts and leases affecting the property; the potential financial performance of the Property; the availability of government permits and approvals; and the feasibility of the Property for Buyer's intended purpose. This Agreement shall terminate and Buyer shall receive a refund of the earnest money unless Buyer gives written notice to Seller within _____ days (30 days if not filled in) (the "Feasibility Period") of Mutual Acceptance stating that this condition is satisfied. If such notice is timely given, the feasibility contingency stated in this Section 5 shall be deemed to be satisfied. 60 61 62 63 64 65 66 67

a. **Books, Records, Leases, Agreements.** Seller shall make available for inspection by Buyer and its agents within _____ days (2 days if not filled in) after Mutual Acceptance all documents in Seller's possession or control relating to the ownership, operation, renovation or development of the Property, excluding appraisals or other statements of value, and including: statements for real estate taxes, assessments, and utilities for the last three years and year to date; property management agreements and any other agreements with professionals or consultants; leases or other agreements relating to occupancy of all or a portion of the Property and a suite-by-suite schedule of tenants, rents, prepaid rents, deposits and fees, plans, specifications, permits, applications, drawings, surveys, and studies; maintenance records, accounting records and audit reports for the last three years and year to date; and "Vendor Contracts" which shall include maintenance or service contracts, and installments purchase contracts or leases of personal property or fixtures used in connection with the Property. Buyer shall determine within the Feasibility Period: (i) whether Seller will agree to terminate any objectionable Vendor Contracts; and (ii) whether Seller will agree to pay any damages or penalties resulting from the termination of objectionable Vendor Contracts. Buyer's waiver of the Feasibility Contingency shall be deemed Buyer's acceptance of all Vendor Contracts which Seller has not agreed in writing to terminate. Buyer shall be solely responsible for obtaining any required consents to such assumption and the payment of any assumption fees. Seller shall cooperate with Buyer's efforts to receive any such consents but shall not be required to incur 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83

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BUYER: _____ Date: _____ SELLER: _____ Date: _____

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any out-of-pocket expenses or liability in doing so. Seller shall transfer the Vendor Contracts as provided in Section 17. 84
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- b. **Access.** Seller shall permit Buyer and its agents, at Buyer's sole expense and risk to enter the Property at reasonable times subject to the rights of and after legal notice to tenants, to conduct inspections concerning the Property and improvements, including without limitation, the structural condition of improvements, hazardous materials, pest infestation, soils conditions, sensitive areas, wetlands, or other matters affecting the feasibility of the Property for Buyer's intended use. Buyer shall schedule any entry onto the Property with Seller in advance and shall comply with Seller's reasonable requirements including those relating to security, confidentiality, and disruption of Seller's tenants. Buyer shall not perform any invasive testing including environmental inspections beyond a phase I assessment or contact the tenants or property management personnel without obtaining the Seller's prior written consent, which shall not be unreasonably withheld. Buyer shall restore the Property and improvements to the same condition they were in prior to inspection. Buyer shall be solely responsible for all costs of its inspections and feasibility analysis and has no authority to bind the Property for purposes of statutory liens. Buyer agrees to indemnify and defend Seller from all liens, costs, claims, and expenses, including attorneys' and experts' fees, arising from or relating to entry onto or inspection of the Property by Buyer and its agents. This agreement to indemnify and defend Seller shall survive closing. Buyer may continue to enter the Property in accordance with the foregoing terms and conditions after removal or satisfaction of the feasibility contingency only for the purpose of leasing or to satisfy conditions of financing. 86
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- c. Buyer waives the right to receive a seller disclosure statement ("Form 17-Commercial") if required by RCW 102 64.06. However, if Seller would otherwise be required to provide Buyer with a Form 17-Commercial, and if the answer to any of the questions in the section of the Form 17-Commercial entitled "Environmental" would be "yes," then buyer does not waive the receipt of the "Environmental" section of the Form 17-Commercial which shall be provided by Seller. 102
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6. TITLE INSURANCE. 107

- a. **Title Report.** Seller authorizes Buyer, its Lender, Listing Broker, Selling Broker and Closing Agent, at Seller's expense, to apply for and deliver to Buyer a standard extended (standard, if not completed) coverage owner's policy of title insurance. If an extended coverage owner's policy is specified, Buyer shall pay the increased costs associated with that policy including the excess premium over that charged for a standard coverage policy, and the cost of any survey required by the title insurer. The title report shall be issued by First American Title and Escrow (a title company of Seller's choice, if not completed). If Seller previously received a preliminary commitment from a title insurer that Buyer declines to use, Buyer shall pay any cancellation fee owing to the original title insurer. Otherwise, the party applying for title insurance shall pay any title cancellation fee, in the event such a fee is assessed. 108
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- b. **Permitted Exceptions.** Buyer shall notify Seller of any objectionable matters in the title report or any supplemental report within the earlier of: (1) twenty (20) days after mutual acceptance of this Agreement; or (2) the expiration of the Feasibility Period. This Agreement shall terminate and Buyer shall receive a refund of the earnest money, less any costs advanced or committed for Buyer, unless within five (5) days of Buyer's notice of such objections (1) Seller agrees, in writing, to remove all objectionable provisions or (2) Buyer notifies Seller that Buyer waives any objections which Seller does not agree to remove. If any new title matters are disclosed in a supplemental title report, then the preceding termination, objection and waiver provisions shall apply to the new title matters except that Buyer's notice of objections must be delivered within five (5) days of delivery of the supplemental report and Seller's response or Buyer's waiver must be delivered within two (2) days of Buyer's notice of objections. The closing date shall be extended to the extent necessary to permit time for these notices. Buyer shall not be required to object to any mortgage or deed of trust liens, or the statutory lien for real property taxes, and the same shall not be deemed to be Permitted Exceptions; provided that the lien securing 117
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any financing which Buyer has agreed to assume shall be a Permitted Exception. Except for the foregoing, ~~these~~ 129 provisions not objected to or for which Buyer waived its objections shall be referred to collectively as the 130 "Permitted Exceptions." Seller shall cooperate with Buyer and the title company to clear objectionable title 131 matters but shall not be required to incur any out-of-pocket expenses or liability other than payment of monetary 132 encumbrances not assumed by Buyer and proration of real property taxes, and Seller shall provide an owner's 133 affidavit containing the information and reasonable covenants requested by the title company. The title policy shall 134 contain no exceptions other than the General Exclusions and Exceptions common to such form of policy and the 135 ~~Permitted Exceptions.~~ 136

7. **CLOSING OF SALE.** This sale shall be closed on or before March 2nd, 2012 ("closing") by 137 First American Title and Escrow, Seattle office ("Closing Agent") (Seller shall select the Closing Agent, 138 if not completed). Buyer and Seller shall deposit with Closing Agent by 12:00 p.m. on the scheduled Closing date all 139 instruments and monies required to complete the purchase in accordance with this Agreement. "Closing" shall be deemed 140 to have occurred when the deed is recorded and the sale proceeds are available to Seller. Time is of the essence in 141 the performance of this Agreement. Sale proceeds shall be considered available to Seller, even though they 142 cannot be disbursed to Seller until the next business day after Closing. ~~Notwithstanding the foregoing, if Seller~~ 143 ~~informed Buyer during the Feasibility Period that Seller's underlying financing requires that it be defeased and~~ 144 ~~may not be paid off, then Closing shall be conducted in accordance with the three day closing process described~~ 145 ~~in CBA Form PS-D.~~ This Agreement is intended to constitute escrow instructions to Closing Agent. Buyer and 146 Seller will provide any supplemental instructions requested by Closing Agent provided the same are consistent 147 with this Agreement. 148

8. **CLOSING COSTS AND PRORATIONS.** Seller shall deliver ~~an updated rent roll~~ to Closing Agent not later than 149 two (2) days before the scheduled Closing date ~~in the form required by Section 5(a) and any other~~ information 150 reasonably requested by Closing Agent to allow Closing Agent to prepare a settlement statement for Closing. 151 ~~Seller certifies that the information contained in the rent roll is correct as of the date submitted.~~ Seller shall pay 152 the premium for the owner's standard coverage title policy. Buyer shall pay the excess premium attributable to 153 any extended coverage or endorsements requested by Buyer, and the cost of any survey required in connection 154 with the same. Seller and Buyer shall each pay one-half of the escrow fees. Any real estate excise taxes shall be 155 paid by the party who bears primary responsibility for payment under the applicable statute or code. Real and 156 personal property taxes and assessments payable in the year of closing; collected rents on any existing 157 tenancies; interest; utilities; and other operating expenses shall be pro-rated as of Closing. ~~If tenants pay any of~~ 158 ~~the foregoing expenses directly, then Closing Agent shall only pro rate those expenses paid by Seller. Buyer shall~~ 159 ~~pay to Seller at Closing an additional sum equal to any utility deposits or mortgage reserves for assumed~~ 160 ~~financing for which Buyer receives the benefit after Closing.~~ Buyer shall pay all costs of financing including the 161 premium for the lender's title policy. If the Property was taxed under a deferred classification prior to Closing, then 162 Seller shall pay all taxes, interest, penalties, deferred taxes or similar items which result from removal of the 163 Property from the deferred classification. ~~At Closing, all refundable deposits on tenancies shall be credited to~~ 164 ~~Buyer or delivered to Buyer for deposit in a trust account if required by state or local law.~~ Buyer shall pay any 165 sales or use tax applicable to the transfer of personal property included in the sale. 166

a. **Unpaid Utility Charges.** Buyer and Seller WAIVE DO NOT WAIVE (do not waive if neither box 167 checked) the right to have the Closing Agent disburse closing funds necessary to satisfy unpaid utility charges 168 affecting the Property pursuant to RCW 60.80. If "do not waive" is checked, then attach CBA Form UA ("Utility 169 Charges" Addendum) to this Agreement. 170

9. **POST-CLOSING ADJUSTMENTS, COLLECTIONS, AND PAYMENTS.** After Closing, Buyer and Seller shall 171 reconcile the actual amount of revenues or liabilities upon receipt or payment thereof to the extent those items 172 were prorated or credited at Closing based upon estimates. Any bills or invoices received by Buyer after Closing 173

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which relate to services rendered or goods delivered to the Seller or the Property prior to Closing shall be paid by Seller upon presentation of such bill or invoice. At Buyer's option, Buyer may pay such bill or invoice and be reimbursed the amount paid plus interest at the rate of 12% per annum beginning fifteen (15) days from the date of Buyer's written demand to Seller for reimbursement until such reimbursement is made. ~~Notwithstanding the foregoing, if tenants pay certain expenses based on estimates subject to a post-closing reconciliation to the actual amount of those expenses, then Buyer shall be entitled to any surplus and shall be liable for any credit resulting from the reconciliation. Rents collected from each tenant after closing shall be applied first to rentals due most recently from such tenant for the period after closing, and the balance shall be applied for the benefit of Seller for delinquent rentals owed for a period prior to closing. The amounts applied for the benefit of Seller shall be turned over by Buyer to Seller promptly after receipt. Seller shall be entitled to pursue any lawful methods of collection of delinquent rents but shall have no right to evict tenants after Closing.~~

10. OPERATIONS PRIOR TO CLOSING. Prior to Closing, Seller shall continue to operate the Property in the ordinary course of its business and maintain the Property in the same or better condition than as existing on the date of Mutual Acceptance, but shall not be required to repair material damage from casualty except as otherwise provided in this Agreement. ~~After the Feasibility Period, Seller shall not enter into or modify existing rental agreements or leases (except that Seller may enter into, modify, extend, renew or terminate residential rental agreements or residential leases in the ordinary course of its business), service contracts, or other agreements affecting the Property which have terms extending beyond Closing without first obtaining Buyer's consent, which shall not be unreasonably withheld.~~

11. POSSESSION. Buyer shall be entitled to possession on Closing _____ (on Closing, if not completed). Buyer shall accept possession subject to all tenancies disclosed to Buyer during the Feasibility Period.

"Seller's Knowledge" shall mean the actual knowledge of R.E. Kelly, Jr, Executor.

12. SELLER'S REPRESENTATIONS. Except as disclosed to or known by Buyer prior to the satisfaction or waiver of the feasibility contingency stated in Section 5 above, including in the books, records and documents made available to Buyer, or in the title report or any supplemental report or documents referenced therein, Seller represents to Buyer that, to the best of Seller's actual knowledge, each of the following is true as of the date hereof: (a) Seller is authorized to enter into the Agreement, to sell the Property, and to perform its obligations under the Agreement; ~~(b) The books, records, leases, agreements and other items delivered to Buyer pursuant to this Agreement comprise all material documents in Seller's possession or control regarding the operation and condition of the Property;~~ (c) Seller has not received any written notices that the Property or the business conducted thereon violate any applicable laws, regulations, codes and ordinances; (d) Seller has all certificates of occupancy, permits, and other governmental consents necessary to own and operate the Property for its current use; (e) There is no pending or threatened litigation ^{against Seller} which would adversely affect the Property or Buyer's ownership thereof after closing; (f) There is no pending or threatened condemnation or similar proceedings affecting the Property, and the Property is not within the boundaries of any planned or authorized local improvement district; (g) Seller has paid (except to the extent prorated at closing) all local, state and federal taxes (other than real and personal property taxes and assessments described in Section 8 above) attributable to the 210 period prior to closing which, if not paid, could constitute a lien on Property (including any personal property), or 211 for which Buyer may be held liable after closing; (h) Seller is not aware of any concealed material defects in the 212 Property except as disclosed to Buyer in writing during the Feasibility Period; (i) There are no Hazardous 213 Substances (as defined below) currently located in, on, or under the Property in a manner or quantity that 214 presently violates any Environmental Law (as defined below); there are no underground storage tanks located on 215 the Property; and there is no pending or threatened investigation or remedial action by any governmental agency 216 regarding the release of Hazardous Substances or the violation of Environmental Law at the Property. As used 217 herein, the term "Hazardous Substances" shall mean any substance or material now or hereafter defined or 218 regulated as a hazardous substance, hazardous waste, toxic substance, pollutant, or contaminant under any 219

→ Except to the extent such violation has been cured, i.e. graffiti,

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federal, state, or local law, regulation, or ordinance governing any substance that could cause actual or suspected harm to human health or the environment ("Environmental Law"). The term "Hazardous Substances" specifically includes, but is not limited to, petroleum, petroleum by-products, and asbestos.

If prior to Closing Seller or Buyer discovers any information which would cause any of the representations above to be false if the same were deemed made as of the date of such discovery, then the party discovering the same shall promptly notify the other party in writing. If the newly-discovered information will result in costs or liability to Buyer in excess of the lesser of \$100,000 or five percent (5%) of the purchase price stated in this Agreement, or will materially adversely affect Buyer's intended use of the Property, then Buyer shall have the right to terminate the Agreement and receive a refund of its earnest money. Buyer shall give notice of termination within five (5) days of discovering or receiving written notice of the new information. Nothing in this paragraph shall prevent Buyer from pursuing its remedies against Seller if Seller had actual knowledge of the newly-discovered information such that a representation provided for above was false.

13. AS-IS. Except for those representations and warranties specifically included in this Agreement: (i) Seller makes no representations or warranties regarding the Property; (ii) Seller hereby disclaims, and Buyer hereby waives, any and all representations or warranties of any kind, express or implied, concerning the Property or any portion thereof, as to its condition, value, compliance with laws, status of permits or approvals, existence or absence of hazardous material on site, occupancy rate or any other matter of similar or dissimilar nature relating in any way to the Property, including the warranties of fitness of a particular purpose, tenantability, habitability and use; (iii) Buyer otherwise takes the Property "AS IS;" and (iv) Buyer represents and warrants to Seller that Buyer has sufficient experience and expertise such that it is reasonable for Buyer to rely on its own pre-closing inspections and investigations.

14. PERSONAL PROPERTY.

a. This sale includes all right, title and interest of Seller to the following tangible personal property: None That portion of the personal property located on and used in connection with the Property, which Seller will itemize in an Exhibit to be attached to this Agreement within ten (10) days of Mutual Acceptance (None, if not completed). The value assigned to the personal property shall be \$ _____ (if not completed, the County-assessed value if available, and if not available, the fair market value determined by an appraiser selected by the Listing Broker and Selling Broker). Seller warrants title to, but not the condition of, the personal property and shall convey it by bill of sale.

~~b. In addition to the leases and Vendor Contracts assumed by Buyer pursuant to Section 5(a) above,~~ this sale includes all right, title and interest of Seller to the following intangible property now or hereafter existing with respect to the Property including without limitation: all rights-of-way, rights of ingress or egress or other interests in, on, or to, any land, highway, street, road, or avenue, open or proposed, in, on, or across, in front of, abutting or adjoining the Property; all rights to utilities serving the Property; all drawings, plans, specifications and other architectural or engineering work product; all governmental permits, certificates, licenses, authorizations and approvals; all rights, claims, causes of action, and warranties under contracts with contractors, engineers, architects, consultants or other parties associated with the Property; all utility, security and other deposits and reserve accounts made as security for the fulfillment of any of Seller's obligations; any name of or telephone numbers for the Property and related trademarks, service marks or trade dress; and guaranties, warranties or other assurances of performance received.

15. CONDEMNATION AND CASUALTY. Seller bears all risk of loss until Closing, and thereafter Buyer shall bear the risk of loss. Buyer may terminate this Agreement and obtain a refund of the earnest money if improvements on the Property are destroyed or materially damaged by casualty before Closing, or if condemnation proceedings are commenced against all or a portion of the Property before closing. Damage will be considered material if the cost of repair exceeds the lesser of \$100,000 or five percent (5%) of the purchase price stated in this Agreement.

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Alternatively, Buyer may elect to proceed with closing in which case at closing Seller shall assign to Buyer all 265
claims and right to proceeds under any property insurance policy and shall credit to Buyer at Closing the amount 266
of any deductible provided for in the policy. 267

16. FIRPTA - TAX WITHHOLDING AT CLOSING. Closing Agent is instructed to prepare a certification (CBA or 268
NWMLS Form 22E, or equivalent) that Seller is not a "foreign person" within the meaning of the Foreign 269
Investment in Real Property Tax Act and Seller shall sign it on or before Closing. If Seller is a foreign person, and 270
this transaction is not otherwise exempt from FIRPTA, Closing Agent is instructed to withhold and pay the 271
required amount to the Internal Revenue Service. 272

17. CONVEYANCE. Title shall be conveyed by a ^{Special} Statutory Warranty Deed subject only to the ^{listed in the Title Commitment} Permitted Exceptions. 273
If this Agreement is for conveyance of Seller's vendee's interest in a Real Estate Contract, the Statutory Warranty 274
Deed shall include a contract vendee's assignment sufficient to convey after acquired title. At Closing, Seller and 275
Buyer shall execute and deliver to Closing Agent CBA Form No. PS-AS Assignment and Assumption Agreement 276
transferring all leases and Vendor Contracts assumed by Buyer pursuant to Section 5(a) and all intangible 277
property transferred pursuant to Section 14(b). 278

18. NOTICES AND COMPUTATION OF TIME. Unless otherwise specified, any notice required or permitted in, or 279
related to, this Agreement (including revocations of offers and counteroffers) must be in writing. Notices to Seller 280
must be signed by at least one Buyer and must be delivered to Seller and Listing Broker with a courtesy copy to 281
any other party identified as a recipient of notices in Section 28. A notice to Seller shall be deemed delivered only 282
when received by Seller, Listing Broker, or the licensed office of Listing Broker. Notices to Buyer must be signed 283
by at least one Seller and must be delivered to Buyer with a copy to Selling Broker with a courtesy copy to any 284
other party identified as a recipient of notices in Section 28. A notice to Buyer shall be deemed delivered only 285
when received by Buyer, Selling Broker, or the licensed office of Selling Broker. Selling Broker and Listing Broker 286
have no responsibility to advise of receipt of a notice beyond either phoning the represented party or causing a 287
copy of the notice to be delivered to the party's address provided in this Agreement. Buyer and Seller shall keep 288
Selling Broker and Listing Broker advised of their whereabouts in order to receive prompt notification of receipt 289
of a notice. If any party is not represented by a licensee, then notices must be delivered to and shall be effective 290
when received by that party at the address, fax number, or email indicated in Section 28. 291

Unless otherwise specified in this Agreement, any period of time in this Agreement shall mean Pacific Time and 292
shall begin the day after the event starting the period and shall expire at 5:00 p.m. of the last calendar day of the 293
specified period of time, unless the last day is a Saturday, Sunday or legal holiday as defined in RCW 1.16.050, in 294
which case the specified period of time shall expire on the next day that is not a Saturday, Sunday or legal 295
holiday. Any specified period of five (5) days or less shall not include Saturdays, Sundays or legal holidays. 296
Notwithstanding the foregoing, references to specific dates or times or number of hours shall mean those dates, 297
times or number of hours; provided, however, that if the Closing Date falls on a Saturday, Sunday, or legal holiday 298
as defined in RCW 1.16.050, or a date when the county recording office is closed, then the Closing Date shall be 299
the next regular business day. 300

19. AGENCY DISCLOSURE. At the signing of this Agreement, 301

Selling Broker _____ 302
represented _____ 303

and the Listing Broker Paul B. Thomas of Realty Brokers Inc. 304

represented Seller 305

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Selling Firm, Selling Firm's Designated Broker, Selling Broker's Branch Manager (if any) and Selling Broker's 306
Managing Broker (if any) represent the same party that Selling Broker represents. Listing Firm, Listing Firm's 307
Designated Broker, Listing Broker's Branch Manager (if any), and Listing Broker's Managing Broker (if any) 308
represent the same party that the Listing Broker represents. If Selling Broker and Listing Broker are different 309
persons affiliated with the same Firm, then both Buyer and Seller confirm their consent to the Broker's Designated 310
Broker, Branch Manager (if any), and Managing Broker (if any) representing both parties as a dual agent. If 311
Selling Broker and Listing Broker are the same person representing both parties then both Buyer and Seller 312
confirm their consent to that person and his/her Designated Broker, Branch Manager (if any), and Managing 313
Broker (if any) representing both parties as dual agents. All parties acknowledge receipt of the pamphlet entitled 314
"The Law of Real Estate Agency." 315

20. ASSIGNMENT. Buyer may may not (may not, if not completed) assign this Agreement, or Buyer's rights 316
hereunder, without Seller's prior written consent, unless provided otherwise herein. If the "may not" option is 317
selected and the words "and/or assigns" or similar words are used to identify the Buyer, then this Agreement may 318
be assigned with notice to Seller but without Seller's consent only to an entity which is controlled by or under 319
common control with the Buyer identified in this Agreement. Any other assignment requires Seller's consent. The 320
party identified as the initial Buyer shall remain responsible for those obligations of Buyer stated in this Agreement 321
notwithstanding any assignment and, if this Agreement provides for Seller to finance a portion of the purchase 322
price, then the party identified as the initial Buyer shall guarantee payment of the Seller financing. 323

21. DEFAULT AND ATTORNEY'S FEE. 324

a. Buyer's default. In the event Buyer fails, without legal excuse, to complete the purchase of the Property, 325
then (**check one**): 326

Seller may terminate this Agreement and keep the earnest money as liquidated damages as the sole and 327
exclusive remedy available to Seller for such failure; or 328

Seller may, at its option, (a) terminate this Agreement and keep as liquidated damages the earnest 329
money as the sole and exclusive remedy available to Seller for such failure, (b) bring suit against Buyer 330
for Seller's actual damages, (c) bring suit to specifically enforce this Agreement and recover any 331
incidental damages, or (d) pursue any other rights or remedies available at law or equity. 332

b. Seller's default. In the event Seller fails, without legal excuse, to complete the sale of the Property, then 333
(**check one**): 334

As Buyer's sole remedy, Buyer may either (a) terminate this Agreement and recover all earnest money or 335
fees paid by Buyer whether or not the same are identified as refundable or applicable to the purchase 336
price; or (b) bring suit to specifically enforce this Agreement and recover incidental damages, provided, 337
however, Buyer must file suit within sixty (60) days from the scheduled date of closing or from the date 338
Seller has informed Buyer in writing that Seller will not proceed with closing, whichever is earlier; or 339

Buyer may, at its option, (a) bring suit against Seller for Buyer's actual damages, (b) bring suit to 340
specifically enforce this Agreement and recover any incidental damages, or (c) pursue any other rights or 341
remedies available at law or equity. 342

Neither Buyer nor Seller may recover consequential damages such as lost profits. If Buyer or Seller institutes suit 343
against the other concerning this Agreement, the prevailing party is entitled to reasonable attorneys' fees and 344
expenses. In the event of trial, the amount of the attorney's fee shall be fixed by the court. The venue of any suit 345
shall be the county in which the Property is located, and this Agreement shall be governed by the laws of the state 346
where the Property is located. 347

Initials: BUYER: _____ Date: _____ SELLER: _____ Date: _____
BUYER: _____ Date: _____ SELLER: _____ Date: _____

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- 22. MISCELLANEOUS PROVISIONS.** 348
- a. **Complete Agreement.** The Agreement and any addenda and exhibits thereto state the entire understanding of Buyer and Seller regarding the sale of the Property. There are no verbal or other written agreements which modify or affect the Agreement. 349 350 351
 - b. **Counterpart Signatures.** The Agreement may be signed in counterpart, each signed counterpart shall be deemed an original, and all counterparts together shall constitute one and the same agreement. 352 353
 - c. **Electronic Delivery.** Electronic delivery of documents (e.g., transmission by facsimile or email) including signed offers or counteroffers and notices shall be legally sufficient to bind the party the same as delivery of an original. At the request of either party, or the Closing Agent, the parties will replace electronically delivered offers or counteroffers with original documents. 354 355 356 357
 - d. **Section 1031 Like-Kind Exchange.** If either Buyer or Seller intends for this transaction to be a part of a Section 1031 like-kind exchange, then the other party agrees to cooperate in the completion of the like-kind exchange so long as the cooperating party incurs no additional liability in doing so, and so long as any expenses (including attorneys fees and costs) incurred by the cooperating party that are related only to the exchange are paid or reimbursed to the cooperating party at or prior to closing. Notwithstanding Section 20 above, any party completing a Section 1031 like-kind exchange may assign this Agreement to its qualified intermediary or any entity set up for the purposes of completing a reverse exchange. 358 359 360 361 362 363 364
- 23. ACCEPTANCE; COUNTEROFFERS.** Seller has until midnight of February 3rd, 2012 ~~(if not filled in, the third business day) following the day Buyer delivers the offer to accept this offer, unless sooner withdrawn. If this offer is not timely accepted, it shall lapse and the earnest money shall be refunded to Buyer. If either party makes a future counteroffer, the other party shall have until 5:00 p.m. on the _____ business day (if not filled in, the second business day) following receipt to accept the counteroffer, unless sooner withdrawn. If the counteroffer is not timely accepted or countered, this Agreement shall lapse and the earnest money shall be refunded to the Buyer. No acceptance, offer or counteroffer from the Buyer is effective until a signed copy is received by the Seller, the Listing Broker or the licensed office of the Listing Broker. No acceptance, offer or counteroffer from the Seller is effective until a signed copy is received by the Buyer, the Selling Broker or the licensed office of the Selling Broker. "Mutual Acceptance" shall occur when the last counteroffer is signed by the offeree, and the fully signed counteroffer has been received by the offeror, his or her broker, or the licensed office of the broker. If any party is not represented by a Broker, then notices must be delivered to and shall be effective when received by that party.~~ 365 366 367 368 369 370 371 372 373 374 375 376 377
offer is signed by Seller
- 24. INFORMATION TRANSFER.** In the event this Agreement is terminated, Buyer agrees to deliver to Seller within ten (10) days of Seller's written request copies of all materials received from Seller and any non-privileged plans, studies, reports, inspections, appraisals, surveys, drawings, permits, application or other development work product relating to the Property in Buyer's possession or control as of the date this Agreement is terminated. 378 379 380 381
- 25. CONFIDENTIALITY.** Until and unless closing has been consummated, Buyer and Seller shall follow reasonable measures to prevent unnecessary disclosure of information obtained in connection with the negotiation and performance of this Agreement. Neither party shall use or knowingly permit the use of any such information in any manner detrimental to the other party. 382 383 384 385
- 26. SELLER'S ACCEPTANCE AND BROKERAGE AGREEMENT.** Seller agrees to sell the Property on the terms and conditions herein, and further agrees to pay a commission in a total amount computed in accordance with the listing or commission agreement. ~~If there is no written listing or commission agreement, Seller agrees to pay a commission of _____% of the sales price or \$_____.~~ The commission shall be apportioned between Listing Firm and Selling Firm as specified in the listing or any co-brokerage agreement. If there is no listing or written co-brokerage agreement, then Listing Firm shall pay to Selling Firm a commission of _____% of the sales price or \$_____. Seller assigns to Listing Firm and Selling Firm a portion of the sales proceeds 386 387 388 389 390 391 392

Initials: BUYER: _____ Date: _____ SELLER: _____ Date: _____
BUYER: _____ Date: _____ SELLER: _____ Date: _____

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Auction

equal to the commission. If the earnest money is retained as liquidated damages, any costs advanced or 393
committed by Listing Firm ~~or Selling Firm~~ for Buyer ~~or Seller~~ shall be reimbursed or paid therefrom, and the 394
balance shall be paid one-half to Seller and one-half to Listing Firm ~~and Selling Firm~~ according to the listing 395
agreement ~~and any co-brokerage agreement~~. In any action by Listing Firm or Selling Firm to enforce this Section, 396
the prevailing party is entitled to reasonable attorneys' fees and expenses. Neither Listing Firm nor Selling Firm 397
are receiving compensation from more than one party to this transaction unless disclosed on an attached 398
addendum, in which case Buyer and Seller consent to such compensation. The Property described in attached 399
Exhibit A, is commercial real estate. Notwithstanding Section 25 above, the pages containing this Section, the 400
parties' signatures and an attachment describing the Property may be recorded. 401

27. LISTING BROKER AND SELLING BROKER DISCLOSURE. EXCEPT AS OTHERWISE DISCLOSED IN 402
WRITING TO BUYER OR SELLER, THE SELLING BROKER, LISTING BROKER, AND FIRMS HAVE NOT 403
MADE ANY REPRESENTATIONS OR WARRANTIES OR CONDUCTED ANY INDEPENDENT INVESTIGATION 404
CONCERNING THE LEGAL EFFECT OF THIS AGREEMENT, BUYER'S OR SELLER'S FINANCIAL 405
STRENGTH, BOOKS, RECORDS, REPORTS, STUDIES, OR OPERATING STATEMENTS, THE CONDITION 406
OF THE PROPERTY OR ITS IMPROVEMENTS; THE FITNESS OF THE PROPERTY FOR BUYER'S 407
INTENDED USE; OR OTHER MATTERS RELATING TO THE PROPERTY, INCLUDING WITHOUT 408
LIMITATION, THE PROPERTY'S ZONING, BOUNDARIES, AREA, COMPLIANCE WITH APPLICABLE LAWS 409
(INCLUDING LAWS REGARDING ACCESSIBILITY FOR DISABLED PERSONS), OR HAZARDOUS OR TOXIC 410
MATERIALS INCLUDING MOLD OR OTHER ALLERGENS. SELLER AND BUYER ARE EACH ADVISED TO 411
ENGAGE QUALIFIED EXPERTS TO ASSIST WITH THESE DUE DILIGENCE AND FEASIBILITY MATTERS, 412
AND ARE FURTHER ADVISED TO SEEK INDEPENDENT LEGAL AND TAX ADVICE RELATED TO THIS 413
AGREEMENT. 414

Initials: BUYER: _____ Date: _____ SELLER: _____ Date: _____
BUYER: _____ Date: _____ SELLER: _____ Date: _____

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28. IDENTIFICATION OF THE PARTIES. The following is the contact information for the parties involved in this Agreement:

Buyer

Contact: _____

Address: _____

Business Phone: _____

Mobile Phone: _____

Fax: _____

Email: _____

Seller

Contact: **Robert E. Kelly Jr., Executor**

Address: _____

Business Phone: _____

Mobile Phone: _____

Fax: _____

Email: _____

Selling Firm

Name: _____

Assumed Name (if applicable): _____

Selling Broker: _____

Address: _____

Business Phone: _____

Mobile Phone: _____

Email: _____

Fax: _____

MLS Office No.: _____

Listing Firm

Name: **Realty Brokers Inc.**

Assumed Name (if applicable): _____

Listing Broker: **Paul B. Thomas of Realty Brokers**

Address: **1326 Fifth Avenue**

Suite 654, Seattle, WA 98101

Business Phone: **(206)525-5652**

Mobile Phone: _____

Email: **paul@NWAuctions.com**

Fax: _____

MLS Office No.: **7163**

Licensed Office of the Selling Broker

Address: _____

Business Phone: _____

Email: _____

Fax: _____

CBA Office No.: _____

Licensed Office of the Listing Broker

Address: **7109 Woodlawn Ave NE Suite 205**

Seattle, WA 98115

Business Phone: **(206)789-2888**

Email: **jon.alberts@yahoo.com**

Fax: _____

CBA Office No.: _____

INITIALS: Buyer _____ Date _____ Seller _____ Date _____
Buyer _____ Date _____ Seller _____ Date _____

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Courtesy Copy of Notices to Buyer to:

Name: _____
Address: _____

Business Phone: _____
Mobile Phone: _____
Fax: _____
Email: _____

Courtesy Copy of Notices to Seller to:

Name: _____
Address: _____

Business Phone: _____
Mobile Phone: _____
Fax: _____
Email: _____

IN WITNESS WHEREOF, the parties have signed this Agreement intending to be bound.

Buyer _____ Buyer _____
Printed name and type of entity Printed name and type of entity

Buyer _____ Buyer _____
Signature and title Signature and title

Date signed _____ Date signed _____

Seller _____ Seller _____
Printed name and type of entity Printed name and type of entity

Seller _____ Seller _____
Signature and title Signature and title

Date signed _____ Date signed _____

Initials: BUYER: _____ Date: _____ SELLER: _____ Date: _____
BUYER: _____ Date: _____ SELLER: _____ Date: _____

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EXHIBIT A*

[Legal Description]

Parcel D of City of Seattle Short Subdivision #80-50, as recorded under King County recording number 8007310466 in King County, Washington

* To ensure accuracy in the legal description, consider substituting the legal description contained in the preliminary commitment for title insurance or a copy of the Property's last vesting deed for this page. Do not neglect to label the substitution "Exhibit A". You should avoid transcribing the legal description because any error in transcription may render the legal description inaccurate and this Agreement unenforceable.

Initials: BUYER: _____ Date: _____ SELLER: _____ Date: _____
BUYER: _____ Date: _____ SELLER: _____ Date: _____