

**PURCHASE AND SALE AGREEMENT
(Cardinal & Valencia)**

This Purchase and Sale Agreement (the “**Agreement**”) is entered into as of _____, 2018 (the “**Effective Date**” to be inserted by Escrow Agent), by and between **Tucson Unified School District Number One**, an Arizona public school district (“**Seller**”), and **KB Home Tucson Inc.**, an Arizona corporation, or its permitted assignee (“**Purchaser**”).

Recitals

A. Seller is the owner of approximately 60.8 acres of real property located east of Cardinal Road and south of Valencia Road, being APN 138-25-5936, in Pima County, Tucson, Arizona, as more particularly described and depicted in **Exhibit A** attached hereto, together with such improvements, fixtures, equipment and other personal property located thereon.

B. Pursuant to the terms and conditions hereafter set forth, Seller desires to sell and Purchaser desires to purchase the Property (as defined in Section 1.2).

C. Purchaser intends to rezone, entitle and develop the property for residential use.

Now therefore, in consideration of the mutual covenants contained herein and other good and valuable consideration, the parties agree as follows:

ARTICLE 1: PROPERTY/PURCHASE PRICE

1.1 Basic Terms.

(a) Purchaser’s Address: KB Home Tucson Inc.
201 N. Bonita Ave. #105
Tucson, Arizona 85745
Attention: Aaron Mendenhall
Telephone: (520) 668-8640
Email: amendenhall@kbhome.com

With copies to: KB Home
5795 W. Badura Ave. #180
Las Vegas, NV 89118
Attn: Anthony Gordon and Marie Vozikis
Telephone: (702) 266-8422 / (702) 266-8412
Email: tgordon@kbhome.com / mvozikis@kbhome.com

(b) Seller’s Address: TUCSON SCHOOL DISTRICT NUMBER ONE
Attention: Bryant Nodine
Planning Services
606 South Plumer
Tucson, Arizona 85716
Telephone: (520) 225-4948
Facsimile: (520) 225-4939
E-mail: bryant.nodine@tusd1.org

With copies to: Robert Ross
TUSD Legal Department
1010 East Tenth Street
Tucson, Arizona 85719

Telephone: 520-225-6040
Facsimile: 520-225-6651
E-mail: robert.ross@tusd1.org

(c) Purchase Price & Terms: The total purchase price for the Property (as defined in Section 1.2 below) is One Million Eight Hundred Twenty Four Thousand and No Dollars (\$1,824,000.00) (the “**Purchase Price**”), subject to credits and adjustments as provided below, and payable to Seller in cash or currently available funds as follows:

(i) Within nine (9) business days of the Effective Date, Purchaser shall deposit with Escrow Agent the sum of Fifty Thousand Dollars (\$50,000.00) in currently available funds as and for an initial earnest money deposit (the “**Initial Escrow Deposit**” or “**Initial Earnest Money Deposit**”) which shall be credited against the Purchase Price at Closing. The Initial Escrow Deposit shall become non-refundable (except in the event of a Seller default or if another provision herein provides for return to Buyer of the Escrow Deposit) at the end of the Review Period.

(ii) Within one (1) business days after Purchaser’s delivery of the Notice to Proceed (hereafter defined), Purchaser shall deposit with Escrow Agent the additional amount of Seventy-Five Thousand and No/100 Dollars (\$75,000.00) (the “**Additional Escrow Deposit**”). Once deposited into Escrow, the Additional Escrow Deposit shall become non-refundable at the end of the Entitlement Period (except in the event of a Seller default or if another provision herein provides for return to Buyer of the Escrow Deposit). The Initial Escrow Deposit and the Additional Escrow Deposit, once made, shall be collectively referred to herein as the “**Escrow Deposit**” or “**Earnest Money Deposit**” or “**Deposit**”. The Escrow Deposit and any interest accrued thereon shall apply in full to the Purchase Price at Closing.

(iii) For the avoidance of doubt, “**Escrow Deposit**” or “**Earnest Money Deposit**” shall not include any Extension Fee (as defined herein).

(iv) The balance of the Purchase Price, to be adjusted based on prorations and adjustments as described herein, shall be paid by Purchaser in currently available funds at Closing.

(d) Effective Date. The Effective Date is that date this fully-executed Agreement is delivered to Escrow Agent, and the Escrow Agent shall insert the Effective Date in the introductory paragraph.

(e) Review Period. “**Review Period**” means the period commencing upon the Effective Date of this Agreement and terminating at the earlier of (i) one hundred twenty (120) days thereafter or (ii) delivery of Notice to Proceed.

(f) Entitlement Period. The “**Entitlement Period**” means the period commencing on the Notice to Proceed and terminating upon Closing.

(g) Closing Date. The closing of the transaction (the “**Close**,” “**Closing**,” “**Closing Date**” or “**Close of Escrow**”) described herein shall occur on the date that is thirty (30) days after the earlier of (A) eighteen (18) months following the Effective Date (the “**Outside Date**”, subject to Purchaser’s right to extend the Outside Date as set forth below) and (B) Approval of the Final Plat, Final Plans and other Entitlements as provided in Section 2.4(a), unless earlier terminated in accordance with the provisions of this Agreement. Notwithstanding the foregoing, the Purchaser shall have the right to extend the Outside Date for up to three (3) thirty (30) day periods (each an “**Extension**”) by, on or before the Outside Date (as it may be extended hereby): (i) delivering to Seller written notice containing Purchaser's election to extend same and (ii) depositing with Escrow Agent Twenty-Five Thousand and No/100 Dollars (\$25,000.00) for each Extension (each an “**Extension Fee**”). Each Extension Fee, if made, shall not become part of the Escrow Deposit but shall be applied to the Purchase Price at the Close of Escrow. The Extension Fees, when made, shall be nonrefundable to Purchaser unless the Closing fails to occur by reason of default by Seller in any of its obligations hereunder.

(h) Title Company: The term “**Title Company**” shall mean:
First American Title Insurance Company
(Same contact information as Escrow Agent)

(i) Escrow Agent: The term “**Escrow Agent**” shall mean:
Title Security Agency, LLC
One South Church Avenue, Suite 1610
Tucson, AZ 85701
Attn: Bobbi Raymond
Telephone: (520) 740-0424
Facsimile: (520) 202-6318
Email: bobbi.raymond@titlesecurity.com

(j) Brokers: Seller’s Broker: None
Purchaser’s Broker: Jim Vincent, Carlier Company

(k) Expiration Date: This Agreement shall expire and be of no force or effect if not executed by both Purchaser and Seller and delivered to Escrow Agent on or before 5:00 p.m., Arizona Time on August 30, 2018.

(l) Assignment. Purchaser shall be allowed to assign this Agreement, to (i) an entity or entities which control, are controlled by, or are under common control with, directly or indirectly, Purchaser or its principals, or (ii) an affiliate of Purchaser; provided, however, that upon such assignment, the original Purchaser shall remain jointly and severally liable with the assignee for the performance of Purchaser’s obligations hereunder until the Closing of the transaction described herein, at which time the original Purchaser shall be released from further liability hereunder.

(m) Use Restriction. Prior to Closing, Seller will record a use restriction in the form of Exhibit C attached hereto to prohibit the use of the property for a charter school for 25 years from the closing. Such restriction shall not restrict home-schooling by homeowners or operation of daycare by homeowners. Purchaser agrees to abide by this restriction.

1.2 Property. Subject to the terms of this Agreement, Seller agrees to sell to Purchaser, and Purchaser agrees to purchase from Seller, each of the following (collectively, the “**Property**”):

(a) all of Seller’s right, title and interest in and to the real property consisting of 60.8 acres, more or less, described and depicted on Exhibit A, attached hereto (the “**Real Property**”), together with all buildings, fixtures and improvements now or hereafter located thereon (collectively, the “**Improvements**”), and all appurtenances of the Real Property, including easements or rights-of-way relating thereto, and, without warranty, all right, title, and interest, if any, of Seller in and to the land lying within any street or roadway adjoining the Real Property described above or any vacated or hereafter vacated street or alley adjoining said Real Property, including, without limitation, all minerals, oil, gas and other hydrocarbon substances, all development rights, air rights, water, water rights and water stock relating to the Real Property, and all strips and gores, streets, alleys, easements, rights-of-way, public ways, or other rights of Seller appurtenant, adjacent or connected to the Real Property; and

(b) all of Seller’s right, title and interest, if any, in and to any personal and intangible property owned by Seller and pertaining to or used by Seller in connection with all or any portion of the Real Property, including but not limited to all of Seller’s right, title and interest, if any and to the extent applicable, in and to: (i) all plats, improvement plans, drawings and specifications and development rights and credits relating to the Property, (ii) all books, records, reports, test results, environmental assessments, if any, as-built plans, specifications and other similar documents and materials relating to the use, operation, maintenance, repair, construction or fabrication of all or any portion of the Real Property; (iii) all transferable business licenses, architectural, site, landscaping or

other permits, applications, approvals, authorizations and other entitlements affecting any portion of the Real Property; (iv) all transferable guarantees, warranties and utility contracts relating to all or any portion of the Real Property, and (v) all historic, current, and updated from time to time books, records, reports, licenses, employee files and records, tax returns, operating information and manuals, advertising and marketing information and materials, personal property inventories, and any other materials as Purchaser may require, to the extent such information and materials are in the possession of, or under the control of, Seller as updated during the period between the Effective Date and Closing, relating to the ownership or operations of the Property, previously operated by Sellers on the Property, and personal property such as furnishings, equipment, vehicles, tanks, tools, logos, artwork, advertisements, brand names, fictitious names and slogans, operating names, computers, appliances, window coverings, trade fixtures, and other items used in the operation of the Property and stored at the Property as of the Effective Date.

1.3 Earnest Money. The Escrow Agent shall place the Escrow Deposit in an interest bearing account or (if permitted by the issuing bank, accept an assignment of an existing certificate of deposit in an amount equal to the required Escrow Deposit and as directed by Purchaser). All interest earned thereon shall accrue to the benefit of the party entitled to the Escrow Deposit, with Purchaser being entitled to credit at Closing for such interest in the event Purchaser timely closes the transaction described herein. The Escrow Deposit shall be applied to the Purchase Price at Closing.

ARTICLE 2: INSPECTIONS AND CONTINGENCIES.

2.1 Property Information. Within ten (10) business days of the Effective Date of this Agreement, Seller or its broker shall deliver or make available to Purchaser each of the following documents and information in the Seller's possession, or under the control of Seller, regarding the Property (the "**Property Information**"):

(a) A list of Seller's files and records, and will make available to Purchaser such files and records for inspection and copying;

(b) Any existing surveys and environmental assessments or related studies or reports for the Property including any and all asbestos studies, reports, and evaluations;

(c) Copies of all geotechnical (soils) reports, archeological or similar reports, biological and endangered species reports, engineering reports, appraisals and termite reports for the Property (or similar studies or assessments for the Property), construction drawings, plan check applications and comments, easement and right of way applications;

(d) Copies of all permits, consents, authorizations, variances or waivers, zoning letters and other entitlements and approvals from any governmental or quasi-governmental agency, department, board, commission, bureau or other entity or private persons;

(e) Copies of all notices of violations from governmental authorities related to the Property, and all copies of all lawsuits, insurance claims and notices or threats of condemnation;

(f) Copies of any notice of violation or incident report;

(g) Copies of insurance policies and copies of any insurance loss runs;

(h) Any other third-party reports, contracts and agreements of any kind;

(i) All other information and documents requested by Purchaser from Seller's Broker or Seller. This information does not include attorney / client privileged documents; provided, however, that Seller shall notify Purchaser of any documents or information it is withholding pursuant to the attorney / client privilege; and

(j) A list of all personal property used in the operation of the Property.

2.2 Limitation of Liability for Property Information. Except as otherwise provided in Section 7.1 Seller makes no representations or warranties regarding the Property Information.

2.3 Inspections in General and Review Contingency. Seller grants to Purchaser and its agents and authorized representatives a license during the Review Period and thereafter until Closing to enter upon the Property and at Purchaser's sole expense perform any inspections, investigations, studies and tests of the Property (including, without limitation, physical, engineering, soils, geotechnical and environmental tests) that Purchaser deems reasonable, and to investigate such other matters pertaining to the Property as Purchaser may desire. Purchaser agrees to repair any damage to the Property caused by Purchaser's inspections and to indemnify, defend, and hold harmless Seller, for, from, and against any loss, damage, liability, or claim (including reasonable attorneys' fees and court costs) for bodily injury, material or mechanics liens, or property damage caused by Purchaser's inspections and testing; provided that Purchaser shall not be liable to Seller solely as a result of the discovery by Purchaser of a pre-existing condition on the Property. This indemnity shall survive Closing and the termination of this Agreement for a period of three (3) months. In the event Purchaser terminates this Agreement as permitted herein, then Purchaser shall provide to Seller "AS IS", without representation or warranty, copies of all such third party tests, reports, and studies, except appraisals, house plans, and confidential or proprietary information.

(a) Environmental Inspections. The inspections under this Section 2.3 may include a non-invasive Phase I environmental assessment of the Property, and if recommended by the Phase I environmental assessment, a Phase II environmental assessment. Purchaser shall give Seller a copy of all Environmental Assessments prepared on behalf of Purchaser for the Property.

(b) Review Contingency. In the event Purchaser in its sole discretion disapproves of the condition of the Property or the Property Information for any reason, then Purchaser may terminate this Agreement at any time prior to expiration of the Review Period by giving written notice to Seller, in which event this Agreement shall terminate and the Escrow Deposit and any accrued interest shall be immediately returned by Escrow Agent to Purchaser. If Purchaser desires for this Agreement to continue beyond the expiration of the Review Period, then Purchaser shall issue written notice to Seller ("**Notice to Proceed**") whereupon Purchaser will be deemed to have approved the condition of the Property and Property Information. Failure to issue a Notice to Proceed shall be election by Purchaser to terminate this Agreement as stated above. Upon Purchaser's approval of the Property and Property Information (by issuance of the Notice to Proceed), the Initial Escrow Deposit shall become non-refundable to Purchaser, except in the event that (i) the transaction set forth herein does not timely Close as a result of a breach of any term or condition of this Agreement by Seller, or Seller's failure to timely perform any condition or obligation set forth herein, or (ii) Purchaser's Conditions to Closing in Section 4.3 (a) through 4.3 (e) are not satisfied, or (iii) another Section of the Agreement such as Section 4.2, allows Purchaser to terminate this Agreement and have the Escrow Deposit returned. At Closing, the Escrow Deposit shall be credited against the Purchase Price.

2.4 Entitlements and Water Service. The Close of Escrow shall be subject to the following additional conditions for Purchaser's benefit only. Purchaser may waive any or all of these conditions in its sole and absolute discretion, but only in writing. If any of these conditions cannot be met to Purchaser's satisfaction in its sole and absolute discretion on or before the Outside Date then, unless waived by Purchaser, Purchaser may terminate the Agreement by delivery of written notice to Seller and Escrow Agent, whereupon Escrow Agent shall immediately return to Purchaser the Additional Escrow Deposit and any refundable Deposit and neither Party shall have any further obligation, rights, or liability under this Agreement, except in the case of default as provided herein.

(a) Approval of the Entitlements. Purchaser shall have secured Approval (hereafter defined) of the rezoning of the Property to CR-3 or CR-4, as selected by Purchaser, a tentative plat and a final plat platting the Land into not less than 180 Lots sized as needed for Purchaser's proposed residences and development plans for required offsite work relating thereto (collectively, the "**Entitlements**") on terms, conditions and stipulations acceptable to Purchaser in its sole discretion. The term "**Approval**" shall mean approval by all applicable governmental entities, departments, persons and agencies that grant approval, and passage of all appeal and

referendum periods without appeal or referendum occurring. Purchaser shall use commercially reasonable efforts to obtain the Approval of the Entitlements, and shall deliver to Seller written notice of the status of such efforts no less frequently than monthly. Approval of the Entitlements shall include, if necessary or desired by Purchaser, the Approval or the receipt by Purchaser of: (i) rezoning or specific plan amendment allowing use of the Land for single family detached residential development (“**Plan Amendment**”), a tentative plat (“**Tentative Plat**”), a final plat (“**Final Plat**”), and all engineering, landscape, development and other plans required by the City, the County or any utility or other applicable government entity (the “**Final Plans**”) to be able to record the Entitlements and complete finished Lots upon which a home can be constructed, sold and occupied; (ii) receipt of will-serve letters and execution of utility agreements acceptable to Purchaser upon which Purchaser can rely with respect to the Land from all utility providers; (iii) receipt of a Section 404 permit, if required, to grade the Land or evidence acceptable to Purchaser that a Section 404 permit is not required (such as a non-jurisdiction opinion from the United States Army Corps of Engineers); (iv) receipt of a certificate of assured water supply for the Land from the Arizona Department of Water Resources issued in the name of Purchaser with regard to the Entitlements which satisfies the requirements under Arizona Law for Purchaser to record the Entitlements and to obtain a public report from the Arizona Department of Real Estate, or confirmation of service from a provider designated as having an assured supply; (v) receipt of health certificates, approvals to construct and any other approvals required to confirm that there is physical capacity and availability of water and wastewater service to the Land and to confirm that Purchaser will be able to proceed with construction of utility lines and to obtain building permits and certificates of occupancy or equivalent for houses to be constructed by Purchaser; and (vi) grant and recording of any offsite easements (excluding easements solely over, under or through the Land) needed for any development work required by the Final Plans or otherwise with regard to the Land by the holder of fee title and consent and subordination or release by any lienholder. If, at any time prior to securing Approval of all Entitlements, Purchaser determines in its discretion that securing such Approval might not be achievable or might require terms, conditions, undertakings or expenses that would not be acceptable to Purchaser, then Purchaser may elect to terminate this Agreement by delivering written notice to Seller. Buyer agrees to use good faith commercial efforts to meet the following submittal dates (although Buyer shall not be in default hereunder if Buyer fails to meet any such dates):

- (i.) Zoning submittal: one (1) month following issuance of the Notice to Proceed
- (ii.) Tentative Plat submittal: five (5) months following issuance of the Notice to Proceed
- (iii.) Final Plat submittal: nine (9) months following issuance of the Notice to Proceed

(b) Securing Water Service. Purchaser shall have secured a will serve letter and/or commitments or other agreements acceptable to Purchaser evidencing Tucson Water’s commitment and agreement to provide water and sewer service to and for the Property as needed for Purchaser’s proposed development, understanding such will serve letter and/or commitments or other agreements may condition same on development of the Property in phases as stipulated by Tucson Water’s water service policy. Seller agrees to cooperate with Purchaser in this endeavor including signing documents as necessary to process and secure the lot split of the Property creating separate parcels of less than 20 acres each, as determined by Purchaser, with the southernmost parcel to be created herein referred to as “Phase 1 of the Project”, all to be done on the basis that Tucson Water requires a property be surrounded on 3 sides by Tucson Water service area and be less than 20 acres as a pre-condition to water service. If Closing does not occur, at Seller’s request if provided within thirty (30) days of the termination of this Agreement Purchaser agrees to combine the parcels created by the lot split to return the Property to be one parcel.

ARTICLE 3: TITLE AND SURVEY REVIEW

3.1 Title Commitment and Survey. Within ten (10) days of the Effective Date of this Agreement, Seller shall cause the Title Company to deliver to Purchaser a current preliminary title commitment (“**Title Commitment**”) for the Property issued by the Title Company, together with copies of all documents referenced in the Title Commitment. During the Review Period, Seller shall reasonably cooperate with Purchaser to obtain an ALTA survey in CADD and hard copy formats for the Property certified by a registered civil engineer or a registered land surveyor licensed in Arizona and provide same to Seller, the Title Company and Purchaser’s lender, and prepared in accordance with any requirements of Title Company or Purchaser’s lender (the “**Survey**”).

Purchaser shall be responsible for the cost of the Survey, but if the transaction described herein Closes, then Purchaser shall receive a credit at Closing against the Purchase Price equal to one-half (1/2) of the cost of the Survey. The legal description of the Property contained in the Survey will be the legal description used for the Title Policy and all Closing Documents. If the transaction set forth herein does not timely Close as a result of a breach of any term or condition of this Agreement by Seller, or Seller's failure to timely perform any condition or obligation set forth herein, Seller shall be fully responsible for the cost of the Survey.

3.2 Purchaser Permitted Exceptions. During the Review Period, Purchaser shall review title to the Property as disclosed in the Title Commitment and Survey, and Purchaser may terminate this Agreement by giving written notice to Seller and Escrow Agent prior to expiration of the Review Period if it is dissatisfied with the status of the Property's title for any reason. Seller shall convey the Property to Purchaser subject only to the Permitted Exceptions (as hereafter defined) and free and clear of any monetary liens and encumbrances, including taxes, which Seller shall cause to be released at Closing. Notwithstanding any language herein to the contrary, if any monetary lien (including, but not limited to, mechanic's liens or liens for delinquent unpaid taxes and assessments) is not released by Seller prior to Closing, then a portion of the Purchase Price shall be applied by Escrow Agent as necessary to release the monetary lien to Purchaser's reasonable satisfaction, and the Purchase Price proceeds payable to Seller shall be reduced accordingly. The term "**Permitted Exceptions**" means: (a) standard exceptions contained in the title insurance policy form, (b) the specific title exceptions (exceptions that are shown on Schedule "B," Part 2 of the Title Commitment), and that the Title Company has not agreed to insure over or remove from the Title Commitment and that Seller is not required to remove as provided above; and (c) items which would be disclosed by an accurate ALTA survey of the Property. In the event the Title Company amends or updates the Title Commitment after expiration of the Review Period but before the Closing Date, whether upon receipt of the Survey or for other reasons (each, a "**Title Report Update**") and such Title Report Update discloses a new title exception not previously known to Purchaser and which was not created or permitted by Purchaser, then Purchaser may either (a) terminate this Agreement by giving written notice to Seller within ten (10) business days after its receipt of such Title Report Update (the "**Title Update Review Period**"), or (b) require Seller to remove the exception prior to Closing if such removal can be accomplished at a cost of less than One Hundred Thousand Dollars (\$100,000.00), or (c) waive the exception and proceed to Closing. From the Effective Date until the earlier of termination of this Agreement or Close of Escrow, Seller shall not encumber the Property with any additional monetary liens. Additionally, Seller shall not take any affirmative action from the Effective Date until Close of Escrow which results in the imposition of any additional exceptions to title to the Property, without first obtaining Purchaser's consent. If Purchaser terminates this Agreement as allowed in this Section 3.2, the Escrow Deposit and any accrued interest shall be immediately returned by Escrow Agent to Purchaser. Should Purchaser fail to notify Seller in writing of its intention to terminate this Agreement because of any matter first disclosed in a Title Report Update prior to the expiration of the Title Update Review Period, then Purchaser shall be deemed to have approved such matter, which shall be considered to be a Permitted Exceptions.

3.3 Delivery of Title Policy at Closing. As a condition to Purchaser's obligation to close, the Title Company shall commit to issue to Purchaser at or following Closing a 2006 ALTA Extended Coverage Owner's Policy of Title Insurance in the amount of the Purchase Price, and an ALTA Extended Coverage Lender's Title Policy as required by Purchaser's construction or acquisition lender dated as of the date and time of recording of the Deed (collectively, the "**Title Policies**"), naming Purchaser as the insured fee simple title owner of the Property, and subject only to the Permitted Exceptions. The Title Policies may be delivered after Closing if customary in the locality. Seller shall pay that portion of the title insurance premium equal to the cost of a standard owner's title insurance policy, and Purchaser shall pay such additional premium amount necessary to obtain extended coverage or endorsement coverage and any lender's coverage, as required by Purchaser.

ARTICLE 4: OPERATIONS, RISK OF LOSS, AND CLOSING CONDITIONS

4.1 New Contracts and Property Tax Protest. During the term of this Agreement, without Purchaser's prior written consent, Seller shall not enter into any new contract that will be an obligation affecting the Property or any business operations conducted on the Property subsequent to the Closing. In the event Seller does not file a property tax protest for the Property, Purchaser may during the term of this Agreement, at Purchaser's sole expense, protest the Property's assessment and tax valuation in an effort to lower property taxes, and Seller shall reasonably cooperate with Purchaser in connection with any such property tax protest.

4.2 Damage or Condemnation. Risk of loss resulting from any condemnation or eminent domain proceeding which is commenced or has been threatened before the Closing, and risk of loss to the Property due to fire, flood or any other cause before the Closing, shall remain with Seller. If before Closing the Property or any portion thereof shall be damaged, or if the Property or any portion thereof shall be subjected to a bona fide threat of condemnation or shall become the subject of any proceedings, judicial, administrative or otherwise, with respect to the taking by eminent domain or condemnation, then Seller shall give written notice of such damage or taking to Purchaser (the "**Seller Notice**"). If the damage or taking would involve a Material Taking or Material Damage, Purchaser may elect to terminate this Agreement by giving written notice of its election to Seller within ten (10) business days after Purchaser's receipt of the Seller Notice, with the Closing Date extended if necessary (the "**Notice of Loss or Taking Period**"), in which event the Escrow Deposit and any accrued interest shall be returned to Purchaser. If no such election is made, or if the damage or taking is not Material Damage or Material Taking, this Agreement shall remain in full force and effect and the purchase contemplated herein, less any interest taken by eminent domain or condemnation, shall be effected with no further adjustment, and upon the Closing of the transaction described herein, Seller shall assign, transfer and set over to Purchaser all of the right, title and interest of Seller in and to any awards that have been or that may thereafter be made for such taking, and Seller shall assign, transfer and set over to Purchaser any insurance proceeds that may thereafter be made for such damage or destruction giving Purchaser a credit at Closing for any deductible under such policies. For the purposes of this Section, the phrase "**Material Damage**" means damage reasonably exceeding Fifty Thousand Dollars (\$50,000.00), and the phrase "**Material Taking**" means a condemnation of more than five percent (5%) of the total area of the Property or loss of access to a public street.

4.3 Purchaser's Conditions to Closing. The obligation of Purchaser to complete the transaction contemplated by this Agreement is subject to the following conditions precedent (the "**Purchaser's Closing Conditions**"), which conditions may be waived, or the time for satisfaction thereof extended, by Purchaser only in a writing executed by Purchaser:

(a) Seller's Due Performance. All of the representations and warranties of Seller set forth in this Agreement shall be true, correct and complete in all material respects as of the Closing Date, and Seller, on or prior to the Closing Date, shall have complied with and/or performed all of the material obligations, covenants and agreements required on the part of Seller to be complied with or performed pursuant to the terms of this Agreement, including the execution and delivery by Seller of all closing documents described in Section 5.3.

(b) Satisfaction or Waiver of Contingencies. The Review Period shall have expired or shall otherwise each have been satisfied or waived by Purchaser as provided herein.

(c) Bankruptcy. No action or proceeding shall have been commenced by or against Seller under the federal bankruptcy code or any state law for the relief of debtors or for the enforcement of the rights of creditors, and no attachment, execution, lien or levy shall have attached to or been issued with respect to Seller's interest in the Property or any portion thereof.

(d) Possession. All lessees, tenants and occupants of the Property (if any) must have vacated the Property so that sole and exclusive possession of the Property can be provided to Purchaser at the Close of Escrow.

(e) Availability of Title Insurance. The Title Company shall be prepared and willing to issue to Purchaser and its lender the Title Policies described in Section 3.3.

(f) Other. Purchaser shall have secured the Entitlements and Water Service (for Phase 1 of the Project) referenced in Section 2.4.

4.4 Failure of Purchaser's Closing Conditions. If any of Purchaser's Closing Conditions described in Section 4.3 have not been fulfilled within the applicable time periods, Purchaser may:

(a) Waive the unfulfilled Purchaser Closing Condition and Close in accordance with this Agreement, without adjustment or abatement of the Purchase Price;

(b) Extend the Closing Date pursuant to Section 1.1(f); or

(c) Terminate this Agreement by written notice to Seller, in which event Escrow Agent shall return the Escrow Deposit plus any accrued interest to Purchaser, and in the event Purchaser's Conditions in Sections 4.3(a) through 4.3(e) are not met, Seller shall pay for all of the cancellation charges of Title Company and Escrow Agent.

To the extent the failure of any applicable Purchaser's Closing Condition is caused by a breach of any term or condition of this Agreement by Seller, or Seller's failure to timely perform any condition or obligation set forth herein, Purchaser shall be entitled to pursue its rights and remedies pursuant to the terms of Article 8 hereof.

4.5 Seller's Closing Conditions. The obligation of Seller to complete the transaction contemplated by this Agreement is subject to the following conditions precedent (the "**Seller's Closing Conditions**"), which conditions may be waived, or the time for satisfaction thereof extended, by Seller only in a writing executed by Seller:

(a) Purchaser's Due Performance. All of the representations and warranties of Purchaser set forth in this Agreement shall be true, correct and complete in all material respects as of the Closing Date, and Purchaser, on or prior to the Closing Date, shall have complied with and/or performed all of the material obligations, covenants and agreements required on the part of Purchaser to be complied with or performed pursuant to the terms of this Agreement.

(b) Bankruptcy. No action or proceeding shall have been commenced by or against Purchaser or any affiliate of Purchaser under the federal bankruptcy code or any state law for the relief of debtors or for the enforcement of the rights of creditors.

4.6 Failure of Seller's Closing Conditions. If any of Seller's Closing Conditions described in Section 4.5 above have not been fulfilled within the applicable time periods, Seller may:

(a) Waive the unfulfilled Seller's Closing Condition and Close in accordance with this Agreement, without adjustment or abatement of the Purchase Price; or

(c) Terminate this Agreement by written notice to Purchaser, in which event Purchaser shall pay for all of the cancellation charges of Title Company and Escrow Agent, if any, and to the extent that the failure of any applicable Seller Closing Condition is caused by a breach of any term or condition of this Agreement by Purchaser, or Purchaser's failure to timely perform any condition or obligation set forth herein, Seller shall be entitled to pursue its rights and remedies pursuant to the terms of Article 8.

ARTICLE 5: CLOSING

5.1 Closing. The consummation of the transaction contemplated herein shall occur on or before the Closing Date at the offices of the Escrow Agent.

5.2 Extension of Closing Date. See Section 1.1(f)

5.3 Seller's Deliveries in Escrow. On or before the Closing Date, Seller shall execute and deliver to Escrow Agent the following:

(a) Deed. A Special Warranty Deed (the "**Deed**") in the form attached hereto as **Exhibit B**, executed and acknowledged by Seller and assigning and conveying to Purchaser title to the Property subject to the Permitted Exceptions, along with an assignment and bill of sale in the form of **Exhibit B-1**;

(b) State Law Disclosures. An Affidavit of Property Value, to be prepared by the Escrow Agent as required by Arizona law and executed by Seller and Purchaser or their agents, and the Affidavit of Disclosure, as required by Arizona law;

(c) FIRPTA. A Foreign Investment in Real Property Tax Act Affidavit prepared by the Escrow Agent and executed by Seller;

(d) Proof of Authority. Such proof of Seller's authority and authorization to enter into this Agreement and the transaction contemplated hereby, and such proof of the power and authority of the individual(s) executing or delivering any instruments, documents or certificates on behalf of Seller to act for and bind Seller as may be reasonably required by Title Company; and

(e) Other. Such other documents and instruments, signed and properly acknowledged by Seller, if appropriate, as may be reasonably required by Title Company, Escrow Agent or otherwise in order to effectuate the provisions of this Agreement and the Closing of the transaction contemplated herein.

5.4 Purchaser's Deliveries in Escrow. On or before the Closing Date, Purchaser shall deliver to the Escrow Agent the following:

(a) Purchase Price. The Purchase Price, less the Escrow Deposit and any other costs, adjusted by prorations, reflected on Purchaser's Settlement Statement prepared by Escrow Agent in accord with this Agreement, shall be deposited by Purchaser with the Escrow Agent in immediate, same-day federal funds on the day of Closing and wired for credit into the Escrow Agent's escrow account at a bank satisfactory to Seller;

(b) State Law Disclosures. The Affidavit of Value for the Property; and

(c) Additional Documents. Any additional documents reasonably necessary or required by the Escrow Agent or the Title Company for the proper consummation of the transaction contemplated by this Agreement.

5.5 Closing Statements. At the Closing, Escrow Agent shall prepare and Seller and Purchaser shall approve in writing final settlement statements consistent with this Agreement.

5.6 Title Policy. The Title Policies shall be available at Closing and delivered as soon thereafter as possible as provided in Section 3.3.

5.7 Possession. Seller shall deliver possession of the Property to Purchaser at Closing.

5.8 Costs. Each party shall pay its portion of the following costs as indicated below:

(a) The cost of the Survey and the cost of any Environmental Assessment shall be paid by Purchaser, with Purchaser to receive a credit for one-half of the Survey cost if the transaction described herein closes, but not otherwise.

(b) Title Policy:

- (i) Basic premium - Seller
- (ii) Extended coverage -Purchaser
- (iii) Lender's policy - Purchaser
- (iv) Endorsements - Purchaser (to the extent requested by Purchaser or Purchaser's lender).

(c) Recording charges:

- (i) Documents related to any new loan - Purchaser
- (ii) Deed - Seller
- (iii) All fees and expenses related to any new loan - Purchaser

(d) Other: The Escrow Agent's escrow fee shall be evenly divided and paid between the parties. Each party shall pay its own attorneys' fees. All other fees and costs relating to Closing shall be paid by the parties as is customary in similar real estate transactions in Pima County, Arizona.

5.9 Title Agent. The Escrow Agent, as agent for the Title Company, agrees with Seller and Purchaser that: (a) recordation of the Deed constitutes the Escrow Agent's representation that it is holding the closing documents, closing funds and closing statement and is prepared and irrevocably committed to disburse the closing funds in accordance with the closing statements; and (b) the release of funds to the Seller shall irrevocably commit Title Company to issue the Title Policy in accordance with this Agreement.

ARTICLE 6: PRORATIONS

The Escrow Agent shall deliver a draft closing statement showing all prorations and expenses of the transaction to Seller and Purchaser at least three (3) days prior to the Close of Escrow. Taxes and assessments affecting the Property and any expenses of the Property shall be prorated between Purchaser and Seller as of the Closing Date. All non-delinquent real estate taxes and assessments on the Property shall be prorated based on the actual current tax bill, but if such tax bill has not yet been received by Seller by the Closing Date or if supplemental taxes are assessed after the Closing for the period prior to the Closing, the parties shall make any necessary adjustment after the Closing by cash payment to the party entitled thereto so that Seller shall have borne all real property taxes, including all supplemental taxes, allocable to the period prior to the Closing and Purchaser shall bear all real property taxes, including all supplemental taxes, allocable to the period from and after the Closing. If any expenses attributable to the Property and allocable to the period prior to the Closing are discovered or billed after the Closing, the parties shall make any necessary adjustment after the Closing by cash payment to the party entitled thereto so that Seller shall have borne all expenses allocable to the period prior to the Closing and Purchaser shall bear all expenses allocable to the period from and after the Closing. The provisions of this Article 6 shall survive the Closing, for a period of one (1) year. All improvement and special liens and assessments shall be prorated, with Seller paying all amounts due for the period prior to Closing and Purchaser paying all amounts due for the period from and after Closing.

ARTICLE 7: REPRESENTATIONS AND WARRANTIES

7.1 Seller's Representations and Warranties. As of the Effective Date and as of Closing, Seller represents and warrants to Purchaser as follows that based on the actual knowledge of the Seller:

(a) Organization and Authority. Seller is validly existing in the state of Arizona and has the full right and authority and has obtained any and all consents required to enter into this Agreement and to consummate or

cause to be consummated the transactions contemplated hereby. This Agreement has been, and all of the documents to be delivered by Seller at the Closing will be, authorized by Seller's directors and properly executed, and constitutes, or will constitute, as appropriate, the valid and binding obligation of Seller, enforceable in accordance with their terms.

(b) Conflicts and Pending Action. Other than as expressly disclosed in the Property Information, Seller has not received written notice, and otherwise has no knowledge, of (i) any litigation or condemnation, environmental, zoning or other land-use regulation proceedings or any other legal, administrative or governmental proceeding or investigation, either instituted or planned to be instituted, which would materially and adversely affect the ownership, use, operation or value of the Property, or (ii) any special assessment proceedings affecting the Property. Seller shall notify Purchaser promptly of any such litigation or proceedings of which Seller becomes aware.

(c) Sole Owner. Seller is the sole owner of fee simple interest to the Property. Seller shall not take any action to affect title to the Property while this Agreement is in effect, and the sole and exclusive possession of the Property shall be delivered to Purchaser on or before the date of Closing and there shall be no leases or other rights to occupancy in effect at Closing.

(d) No Third-Party Rights. Except as disclosed in the Title Commitment, there are no leases, occupancy agreements, easements, licenses or other agreements which grant third-parties any possessory or usage rights to all or any part of the Property.

(e) Violations of Laws and Agreements. The execution, delivery and performance by Seller of this Agreement and such other instruments and documents to be executed and delivered in connection herewith by Seller does not, and shall not, result in any violation of, or conflict with, or constitute a default under, any provisions of any agreement of Seller or any mortgage, deed of trust, indenture, lease, security agreement, or other instrument, covenant, obligation, or agreement to which Seller or the Property is subject, or any judgment, law, writ, decree, order, injunction, rule, ordinance or governmental regulation or requirement affecting Seller or the Property.

(f) Bankruptcy. There are no attachments, levies, executions, assignments for the benefit of creditors, receiverships, conservatorships or voluntary or involuntary proceedings in bankruptcy or any other debtor relief actions contemplated by Seller or filed by Seller, or to Seller's knowledge, pending in any current judicial or administrative proceeding against Seller.

(g) Compliance with Laws. Other than as expressly disclosed in the Property Information, Seller has not received written notice, and otherwise has no knowledge, of any violation of any applicable law, ordinance, rule, regulation or requirement of any governmental agency, body or subdivision affecting or relating to the Property, including, without limitation, any subdivision, building, use or environmental law, ordinance, rule, requirement or regulation. Seller shall promptly disclose to Purchaser if following the Effective Date Seller receives from a governmental official a written notice, or otherwise becomes aware, of any of the foregoing.

(h) Condemnation. To Seller's knowledge, there are no pending or threatened eminent domain or condemnation proceedings affecting the Property.

(i) Litigation. There are no actions, investigations, suits or proceedings pending or to Seller's knowledge threatened that affect the Property, or the ownership or operation thereof, and there are no judgments, orders, awards or decrees currently in effect against Seller with respect to the ownership or operation of the Property which have not been fully discharged prior to the Execution Date.

(j) No Other Agreements. To Seller's knowledge and except as disclosed in the Title Commitment or the Property Information, there are no shared expense agreements, repayment agreements, reimbursement agreements or development payback agreements that will affect all or any portion of the Property after Closing.

(k) Hazardous Substance. Neither Seller nor, to Seller's actual knowledge, any third party has used, generated, transported, discharged, released, manufactured, stored or disposed any Hazardous Materials from, into, at, on, under or about the Property. To the best of Seller's knowledge: (a) the Property is not in violation, nor has been or is currently under investigation for violation of, any Environmental Law; (b) there has been no migration of any Hazardous Materials from, into, at, on, under or about the Property; and (c) there is not now, nor has there ever been on or in the Property, underground storage tanks or surface below-grade impoundments used to store, treat or handle Hazardous Materials or debris or refuse buried in, on or under the Property. The term "Hazardous Materials" as used herein shall mean any hazardous or toxic substances, materials, chemicals or wastes in any form and in any concentration that is or becomes, prior to the Close of Escrow, regulated by the United States or any state or local government authority having jurisdiction over the Property (including any present order or agreement imposing liability or standards concerning any such substances, materials, chemicals or wastes, and any future such order of agreement that becomes effective prior to the Close of Escrow), and includes, without limitation: any "hazardous substance", as that term is defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (42 United States Code sections 9601-9675); any "hazardous waste" as that term is defined in the Resource Conservation and Recovery Act of 1976 (RCRA) (42 United States Code section 6901 – 6992k); petroleum products; volatile organic compounds; radioactive materials; asbestos and lead paint, in any form or condition; and substances or compounds containing PCBs. The term "Environmental Law" as used herein shall mean any federal, state or local law, ordinance or regulation, or any order, demand or guidance document of any governmental agency, relating to Hazardous Materials.

(l) To the best of Seller's knowledge, the Property has curb cuts on and direct access to Cardinal Avenue and Westover Avenue.

(m) Seller has not submitted and, to the best of Seller's knowledge, no other person has submitted, an application for the creation of any special taxing district affecting the Property, or annexation thereby, or inclusion therein. Seller has not received notice that any governmental or quasi-governmental agency or authority has commenced or intends to commence construction of any special or off-site improvements or has imposed or increased or intends to impose or increase any special or other assessment against the Property or any part thereof, including assessments attributable to revaluations of the Property. To Seller's knowledge, the Property is assessed for real estate tax purposes as one or more wholly independent tax lots, separate from any adjoining land or improvements not constituting a part of the Property, and no other land or improvements are assessed and taxed together with the Property.

(n) Seller has not misrepresented or failed to disclose any fact that might adversely affect the use, operation or value of the Property.

(o) Seller's representations and warranties shall not be reduced or restricted because of Purchaser's inspections or waivers of conditions to Closing, shall be deemed material and shall survive the Close of Escrow, recordation of any deed and any transfer of title.

"Seller's knowledge" as used in this Agreement means the actual current knowledge of the Parties identified in Section 1.1(b).

7.2 Purchaser's Representations and Warranties. As of the Effective Date and as of Closing, Purchaser represents and warrants to Seller as follows:

(a) Organization and Authority. Purchaser has the full right and authority and has obtained any and all consents required to enter into this Agreement and to consummate or cause to be consummated the transactions contemplated hereby. This Agreement has been, and all of the documents to be delivered by

Purchaser at the Closing will be, authorized and properly executed and constitutes, or will constitute, as appropriate, the valid and binding obligation of Purchaser, enforceable in accordance with their terms.

(b) Conflicts and Pending Action. There is no action or proceeding pending or, to Purchaser's knowledge, threatened against Purchaser which challenges or impairs Purchaser's ability to execute or perform its obligations under this Agreement.

(c) Purchaser has full power and authority to enter into and perform this Agreement in accordance with its terms.

(d) Purchaser acknowledges and agrees that except as otherwise expressly provided herein, the Property shall be purchased in an "As-Is" condition and that Purchaser is purchasing the Property solely upon the basis of its investigation and not on the basis of any representation, express or implied, written or oral, made by Seller or its agents, representatives, co-ventures, or employees, except those representations and warranties expressly set forth herein. Without limiting the generality of the foregoing, except as expressly set forth herein, Seller makes no warranty as to the sufficiency of the Property for Purchaser's purposes, the square footage or acreage contained within the Property, the sufficiency or completeness of any plans for the Property, the approval by the City of Tucson or Pima County of any plans, plats, rezoning, or similar development items relating to the Property.

(e) Purchaser acknowledges that no person acting on behalf of Seller is authorized to make, and by execution of this Agreement, Purchaser acknowledges that no person acting or purporting to act on behalf of Seller has made, any representation, warranty, guaranty, or promise, whether oral or written, except as set forth in this Agreement; and any agreement, statement, representation, or promise made by any person which is not contained in this Agreement shall not be valid or binding upon Seller.

"**Purchaser's knowledge**" as used in this Agreement means the actual current knowledge of the parties identified in Section 1.1(a).

ARTICLE 8: DEFAULT AND DAMAGES

8.1 Default by Purchaser. In the event that the transaction set forth herein does not timely Close as a result of a breach of any term or condition of this Agreement by Purchaser, or Purchaser's failure to timely perform any condition or obligation set forth herein, then Purchaser agrees that Seller shall have the right to retain the Earnest Money Deposit (and, if applicable, any Extension Fee) as liquidated damages to compensate Seller for time spent, labor and services performed, and the loss of its bargain. Purchaser and Seller agree that it would be impractical or extremely difficult to establish damages if Purchaser so defaults, and that the Earnest Money Deposit (and, if applicable, the Extension Fees) represents a reasonable estimate of Seller's damages. Seller agrees to accept the Earnest Money Deposit (and, if applicable, the Extension Fees) as Seller's sole and total damages and relief hereunder if Purchaser defaults in its obligation to close hereunder, Seller waiving all other rights and remedies (except as otherwise expressly provided herein).

8.2 Default by Seller. In the event that the transaction set forth herein does not timely Close as a result of a breach of any term or condition of this Agreement by Seller, or Seller's failure to timely perform any condition or obligation set forth herein, Purchaser's sole and exclusive remedy shall be to elect one of the following: (a) to terminate this Agreement, in which event Purchaser shall be entitled to the return of the Earnest Money Deposit and any Extension Fees and all accrued interest thereon, or (b) to bring a suit for specific performance and recovery of Purchaser's reasonable attorneys' fees; provided however, if specific performance is not available due to any act of Seller, then Purchaser shall be entitled to recover its actual damages, but in no event more than One Hundred Twenty Five Thousand Dollars (\$125,000.00) and in no event consequential or punitive damages. Any suit for specific performance must be brought within ninety (90) days of the discovery of Seller's default. Any suit for damage must be brought within one (1) year from Closing.

ARTICLE 9: MISCELLANEOUS

9.1 Parties Bound. Except for an assignment pursuant to Section 1.1(n), neither party may assign this Agreement without the prior written consent of the other, and any such prohibited assignment shall be void. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the respective legal representatives, successors, assigns, heirs, and devisees of the parties.

9.2 Headings. The article and section headings of this Agreement are for convenience only and in no way limit or enlarge the scope or meaning of the language hereof.

9.3 Invalidity and Waiver. If any portion of this Agreement is held invalid or inoperative, then so far as is reasonable and possible the remainder of this Agreement shall be deemed valid and operative, and effect shall be given to the intent manifested by the portion held invalid or inoperative. The failure by either party to enforce against the other any term or provision of this Agreement shall not be deemed to be a waiver of such party's right to enforce against the other party the same or any other such term or provision in the future.

9.4 Governing Law. This Agreement shall, in all respects, be governed, construed, applied, and enforced in accordance with Arizona law, and any action to enforce or interpret this Agreement shall be brought only in Pima County, Arizona.

9.5 Survival. Unless otherwise expressly stated in this Agreement, each of the covenants, obligations, representations, and agreements contained in this Agreement shall survive the Closing and shall not be merged, until the applicable statute of limitations with respect to any claim, cause of action, suit or other action relating thereto shall have fully and finally expired.

9.6 No Third Party Beneficiary. This Agreement is not intended to give or confer any benefits, rights, privileges, claims, actions, or remedies to any person or entity as a third party beneficiary, decree, or otherwise.

9.7 Entirety and Amendments. This Agreement embodies the entire agreement between the parties and supersedes all prior agreements and understandings relating to the Property. This Agreement may be amended or supplemented only by an instrument in writing executed by the party against whom enforcement is sought.

9.8 Time. Time is of the essence in the performance of this Agreement.

9.9 Attorneys' Fees. Should either party employ attorneys to enforce any of the provisions hereof, the party against whom any final judgment is entered agrees to pay the prevailing party all reasonable costs, charges, and expenses, including attorneys' fees, expended or incurred in connection therewith, including but not limited to fees incurred in connection with any bankruptcy or appeal.

9.10 Notices. All notices required or permitted hereunder shall be in writing and shall be served on the parties at the address set forth in Section 1.1. Any such notices shall be either (a) sent by overnight delivery using a nationally recognized overnight courier, in which case notice shall be deemed delivered one (1) business day after deposit with such courier, (b) sent by email or facsimile, with written confirmation by overnight or first class mail, in which case notice shall be deemed delivered upon email delivery or upon receipt of confirmation transmission of such facsimile notice, or (c) sent by personal delivery, in which case notice shall be deemed delivered upon receipt. Any notice sent by email or facsimile or personal delivery and delivered after 5:00 p.m. local time where the Property is located shall be deemed received on the next business day. A party's address may be changed by written notice to the other party; provided, however, that no notice of a change of address shall be effective until actual receipt of such notice. Copies of notices are for informational purposes only, and a failure to give or receive copies of any notice shall not be deemed a failure to give notice.

9.11 Construction. The parties acknowledge that the parties and their counsel have reviewed and revised this Agreement and that the normal rule of construction -- to the effect that any ambiguities are to be resolved against the drafting party -- shall not be employed in the interpretation of this Agreement or any exhibits or amendments hereto.

9.12 Calculation of Time Periods. Unless otherwise specified, in computing any period of time described herein, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless such last day is a Saturday, Sunday or legal holiday for national banks in the location where the Property is located, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday nor legal holiday. The last day of any period of time described herein shall be deemed to end at 5:00 p.m. local time where the Property is located.

9.13 Execution in Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of such counterparts shall constitute one Agreement. To facilitate execution of this Agreement, the parties may execute and exchange by telephone facsimile counterparts of the signature.

9.14 Section 1031 Exchange. Either Seller or Purchaser or both may consummate the purchase of the Property as part of a so-called like kind exchange (the "**Exchange**") pursuant to Section 1031 of the Internal Revenue Code of 1986, as amended (the "**Code**"), provided that: (a) the Closing shall not be delayed or affected by reason of the Exchange nor shall the consummation or accomplishment of the Exchange be a condition precedent or condition subsequent to the exchanging party's obligations under this Agreement; (b) the exchanging party shall effect the Exchange through an assignment of its rights under this Agreement to a qualified intermediary; and (c) the non-exchanging party shall not be required to take an assignment of the purchase agreement for the replacement property or be required to acquire or hold title to any real property for purposes of consummating the Exchange. The non-exchanging party shall not by this Agreement or acquiescence to the Exchange: (a) have its rights under this Agreement affected or diminished in any manner; or (b) be responsible for compliance with or be deemed to have warranted to the exchanging party that the Exchange in fact complies with Section 1031 of the Code.

9.15 Brokerage Sale Commissions. Each party to this transaction shall compensate its own broker or brokers, if any, and neither party shall be responsible to the other for brokerage commissions or consulting fees of any kind.

ARTICLE 10: EARNEST MONEY PROVISIONS AND MISCELLANEOUS

10.1 Investment and Use of Funds. The Escrow Agent shall invest any portion of the Earnest Money Deposit held in escrow in government insured interest-bearing accounts satisfactory to Purchaser, shall not commingle the Earnest Money Deposit with any funds of the Escrow Agent or others, and shall promptly provide Purchaser and Seller with confirmation of the investments made. All interest earned on the Earnest Money Deposit held in Escrow shall accrue to the benefit of the party entitled to the Earnest Money Deposit.

10.2 Moratorium. Should the Property come under a moratorium resolution or other similar action by a governmental agency or utility company which would normally provide services to the Property, all payments and conditions of performance referred to herein or referred to in any documents connected with this sale, shall automatically be extended by the length of the period covered by such moratorium order but in no event more than ninety (90) days, and if, at the end of such ninety (90) days the moratorium resolution or other similar action has not ended Purchaser may terminate this Agreement by written notice to Seller within five (5) business days following such ninety (90) days, whereupon the Deposit will be returned to Purchaser. Failure of Purchaser to so terminate shall be Purchaser's waiver of such moratorium resolution or other similar action.

10.3 Memorandum. At any time after the issuance of a Notice to Proceed, Purchaser may record against the Property in the applicable official records a memorandum of this Agreement.

10.4 Exhibits

<u>Exhibit A</u>	Legal Description
<u>Exhibit B</u>	Special Warranty Deed
<u>Exhibit C</u>	Use Restriction

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year written below.

Seller:

TUCSON UNIFIED SCHOOL DISTRICT NUMBER ONE,
an Arizona public school district

By: _____
Name: Bryant Nodine
Title: Planning Services Director

Purchaser:

KB HOME TUCSON INC.,
an Arizona corporation

By: _____
Name: _____
Title: _____

Approved and Accepted:

Date Fully Executed Agreement delivered to escrow is _____
_____, 2018, the “**Effective Date**” [to be inserted by Escrow Agent], and in agreement to, first
paragraph.

Security Title Agency, LLC

Bobbi Raymond, Escrow Agent

EXHIBIT A
(Legal Description)

Legal description to be as reflected in the Title Commitment, the property being referred as to APN 138-25-5936.

EXHIBIT B

When recorded, mail to:

SPECIAL WARRANTY DEED

For the sum of Ten Dollars (\$10.00) and other valuable considerations received, _____ (“Grantor”), does hereby sell, grant, convey, assign and transfer to _____ (“Grantee”) that certain real property located in Pima County Arizona and legally described in **Schedule 1** hereto (the “Property”).

This conveyance is made subject to all current taxes and assessments, reservations in patents, and all easements, rights of way, encumbrances, liens, covenants, conditions, restrictions, obligations, liabilities and other exceptions as may appear of record.

GRANTOR hereby binds itself to warrant and defend the title against all of the acts of Grantor and no other, subject to the matters set forth above.

IN WITNESS WHEREOF, Grantor has caused this Special Warranty Deed to be executed as of _____, 20____.

TUCSON UNIFIED SCHOOL DISTRICT NUMBER ONE,
an Arizona public school district

By: _____
Name: Bryant Nodine
Title: Planning Services Director

STATE OF ARIZONA)
) ss
County of Pima)

The foregoing instrument was sworn and acknowledged before me as of _____, 20____, by _____ as _____ of TUCSON UNIFIED SCHOOL DISTRICT NUMBER ONE, an Arizona public school district, for and on behalf of such entity.

Notary Public
My commission expires _____

Schedule 1
(Legal Description of Property)

EXHIBIT B-1
ASSIGNMENT AND BILL OF SALE

Reference is hereby made to that certain Purchase and Sale Agreement dated as of _____, 201_ (the “**Agreement**”), pursuant to which **Tucson Unified School District Number One**, an Arizona public school district (“**Seller**”), has agreed to sell to **KB HOME TUCSON INC.**, an Arizona corporation (“**Purchaser**”), the Property (as defined in the Agreement), together with the improvements located thereon and the rights, privileges and entitlements incident thereto.

For good and valuable consideration, receipt of which is hereby acknowledged, the undersigned Seller hereby sells, transfers, assigns, conveys and delivers to Purchaser, all of Seller's right, title and interest in all assets, tangible and intangible, all rights, materials and claims, including contract rights, development rights, privileges, warranties and all other rights, used, owned or held by Seller relating in any way to the Property, including, without limitation: (i) all entitlements, subdivision agreements and other agreements relating to the development of the Property; (ii) all plans, specifications, maps, drawings and other renderings relating to the Property; (iii) all warranties, claims, indemnities and any similar rights relating to and benefiting the Property or the assets transferred hereby; (iv) all intangible rights, goodwill and similar rights benefiting the Property; (v) all development rights benefiting the Property, including rights under recorded covenants; (vi) all rights, claims or awards benefiting the Property; (vii) all rights to receive reimbursement, credit or refunds from any applicable agency or entity of any deposits or fees paid in connection with the development of the Property, including all credits for development impact fees relating in any way to the Property, including all refunds for the setting or installation of meters, or refunds payable upon connection of utilities or service, including water; (viii) all claims, counterclaims, defenses or actions, whether at common law, or pursuant to any other applicable federal or state or other laws against any third party relating to defective or faulty development of the Property, as defined in the Agreement, or to the existence of any Hazardous Materials in, at, on, under or about the Property.

Seller hereby covenants that it will, at any time and from time to time upon written request therefor, execute and deliver to Purchaser, its nominees, successors and /or assigns, any new or confirmatory instruments and do and perform any other acts which Purchaser, its nominees, successors or assigns, may request in order to fully transfer possession and control of, and protect the rights of Purchaser, its nominees, successors or assigns in, all the assets of Seller intended to be transferred and assigned hereby. Without limitation, if any of the rights or interests assigned hereby is held by Seller’s affiliates, members, shareholders or principals, Seller shall upon demand by Purchaser be responsible to obtain executed supplemental assignments to Purchaser.

Date: _____

TUCSON UNIFIED SCHOOL DISTRICT NUMBER ONE,
an Arizona public school district

By: _____
Name: Bryant Nodine
Title: Planning Services Director

EXHIBIT C

USE RESTRICTION

WHEN RECORDED, RETURN TO:

Tucson Unified School District No. 1
Department of Planning Services
606 S. Plumer Ave
Tucson AZ 85719

TUCSON UNIFIED SCHOOL DISTRICT

USE RESTRICTIONS

THE STATE OF ARIZONA

} KNOWN ALL PERSONS THESE PRESENT:

COUNTY OF PIMA

The undersigned, Tucson Unified School District No. 1 ("the Owner"), is the owner of the following described real estate situated in the Pima County, State of Arizona, commonly referred to as Pima County Assessor Parcel No.1382593C more particularly described as follows:

A portion of the west half of the northwest quarter lying south of the drainage and a portion of the north half of the northwest quarter of the southwest quarter lying north and adjacent to the drainageway, 60.80 acres in Section 16, Township 15 South, Range 13 East, Gila & Salt River base and Meridian, Pima County, Arizona

and being that same tract of land being conveyed contemporaneously herewith to KB Home, Inc. an Arizona Corporation (the "Purchaser") by the Owner, by warranty deed dated on or about the date hereof, such deed to be recorded after this Use Restriction in the Deed Records of Pima County, Arizona.

The Owner does hereby impress all of the Property with the following use restrictions ("restrictions"), to wit:

I.

The property shall not be used for a charter school for 25 years from the date of execution of this document. Such restriction shall not restrict home-schooling by homeowners or operation of daycare by homeowners. Each owner of the Property by acquiring same agrees to abide by this restriction.

II.

The provisions of this document are hereby declared covenants running with the land and are binding on all successors, heirs, and assigns of the Owner who acquire any right, title, or interest in or to the Property, or any part thereof. Any person who acquires any right, title, or interest in or to the Property, or any part thereof, thereby agrees and covenants to abide by and fully perform the provisions of this document.

III.

The Purchaser agrees to defend, indemnify, and hold harmless the Tucson Unified School District No. One from and against all claims or liabilities arising out of or in connection with the provisions of this document.

DATED this _____ day of _____, 20_____.

Bryant Nodine, Planning Services Director
Tucson Unified School District

State of Arizona)
)ss
County Pima)

This instrument was acknowledged before me this _____ day of _____, 20_____, by

NAME OF SIGNEE(S) ABOVE

In witness whereof I hereunto set my hand and official seal.

NOTARY PUBLIC SIGNATURE

My commission expires _____