

HOLD HARMLESS AND INDEMNIFICATION AGREEMENT SELLER FINANCING

THIS HOLD HARMLESS AND INDEMNIFICATION AGREEMENT, given by _____, (collectively "**Indemnitor**") to **Top Equity Realty, LLC**, a Utah limited liability company ("**Company**") and _____ ("**Agent**") on this _____ day of _____, 20____.

WHEREAS, Company has been retained (together with Agent) by Indemnitor to represent Indemnitor in relation to the purchase of real property located at the following address:

("**Property**")

WHEREAS, Indemnitor is entering into a Real Estate Purchase Contract ("**REPC**") involving the Property which includes, among other things, a Seller Financing Addendum (or other form of addendum) to the REPC ("**Seller Financing**") that includes a form of trust note and trust deed securing the Seller in the Property after the closing,

WHEREAS, the Indemnitor desires to complete the closing on the REPC and having been fully advised on the terms of the Seller Financing and the REPC,

NOW, THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged by Indemnitor, Company and Agent, the parties agree as follows:

1. *Default in Trust Deed.* Indemnitor acknowledges that Seller Financing transactions can result in the loss of equity and/or foreclosure caused solely by either the Seller or the Buyer's conduct (the definitions of Buyer and Seller are identified within the REPC and are incorporated herein by this reference). In the event of Buyers breach or non-performance of the terms of the trust note and trust deed held by the Seller, the Seller may remain liable on any underlying mortgage. If the holder of the trust note and trust deed commence a foreclosure action on the Property the costs and expenses associated therewith will not be the responsibility of Company or Agent and will be advanced or paid by the secured Seller (*i.e.* trust note holder and beneficiary of the trust deed) which foreclosure shall be governed by the terms of the trust note, trust deed and Utah law. The parties acknowledge that non-payment by Buyer and failure to pay any underlying mortgage by Seller may result in harm to either or both parties credit scores. Company and Agent have no involvement in the foreclosure of the property. The Seller and Buyer assume this risk independent of Company and Agent.

2. *Due Diligence.* Indemnitor, Company and Agent acknowledge that for the protection of the

parties to the REPC, Company and Agent have recommended to all parties to the REPC, including but not limited to Indemnitor, that the parties obtain a credit report for the Buyer of the Property (*i.e.* maker of the trust note) for the benefit of the Seller of the property (*i.e.* holder of the trust note and beneficiary of the trust deed). Indemnitor has made the election to provide or request a copy of the credit report independent of Company and Agent.

3. *Hold Harmless.* The parties agree and acknowledge that Company and Agent have not taken any position or made any representation or advice concerning (a) the legal and tax consequences of the Seller Financing, (b) the appreciation or depreciation of the Property over time, and (c) the performance of either buyer or seller under the terms of the REPC and Seller Financing Addendum after the closing of the REPC. Indemnitor hereby agrees to hold Company and Agent harmless and releases Company and Agent from any and all liability concerning this transaction. Indemnitor agrees to assume all risk associated with the REPC and/or the Seller Financing Addendum. Indemnitor further acknowledges that Company and Agent have advised Indemnitor to seek competent legal or tax representation relative to the Seller Financing Addendum.

4. *Indemnification.* Further, Company and Agent for the condition of this obligation is such that if Indemnitor, its heirs, administrators, executors, successors, and assigns, or any of them, shall and do at all times hereafter well and sufficiently save, defend, keep harmless, and indemnify Company and Agent, their successors and assigns, of and from all loss, damage, cost, charge, liability or expense, including court costs and attorney's fees, which it may sustain, suffer or be put to under resulting from the Seller Financing provisions of the REPC and resulting trust note and trust deed securing the Seller Financing in the Property.

5. *Company and Agent Authorization.* Indemnitor agrees that if any time Company deems it necessary in order to satisfy any claims or alleged obligations under the Seller Financing Addendum by a party to the REPC, Company may at its sole and absolute discretion, without notice to Indemnitor, pay, satisfy, compromise or do any other act necessary in its judgment to obtain a release or discharge of any and all claims related to the Seller Financing to obtain a release, discharge or satisfaction of the claim. Notwithstanding anything herein which may be construed to the contrary, Indemnitor agrees that Company shall not have to pay, incur, or sustain monetary loss in any amount before calling upon Indemnitor to provide to Company funds necessary to pay, satisfy, compromise or do any other act necessary to obtain a release or discharge from a claimant or party to the Seller Financing Addendum; and Indemnitor shall promptly furnish such funds so demanded by Company.

6. *Indemnitor Payment to Company Upon Demand.* If Indemnitor fails timely to take such steps as in the opinion of Company are necessary to remove the matters set forth herein, Company is authorized in its own discretion to take whatever steps, including but not limited to the commencement of legal action or payment of money, that it determines necessary or advisable to resolve claims and in connection therewith Indemnitor shall, upon demand, advance to Company all funds necessary, including all costs, attorneys' fees, and other expenses.

7. *Selection of Counsel.* Company shall have the right to select and approve any and all counsel

who may be retained by Company and Agent or by Indemnitor to defend any action brought by any party in connection with this Agreement.

8. *Plurals.* In this Agreement, wherever the context so requires, the singular number includes the plural, and where there is more than one person included as Indemnitor the obligations of this agreement shall be binding on all such persons jointly and severally. "Person" herein includes individuals, husband and wife (jointly & severally), corporations, partnerships and all other entities designated in and executing this instrument as Indemnitors. If any Indemnitor be not bound hereunder for any reason, this instrument shall still be binding upon the other Indemnitors.

9. *Liberal Interpretation.* This instrument shall be liberally construed in the interest of and for the protection of Company and Agent. If any provision hereof is held to be void or unenforceable under the laws of any place covering its construction or enforcement, this instrument shall not be void or vitiated thereby, but shall be construed to be in force with the same effect as though such provision were omitted.

10. *Liability Unconditional.* The liability of Indemnitor under this instrument is direct and primary and is not conditioned or contingent upon prior pursuit of any remedies by Company except demand for performance upon Indemnitor. Indemnitor shall be liable for and shall pay promptly to Company all costs, expenses and attorney's fees incurred by Company in enforcing its rights hereunder.

11. *Successors and Heirs.* This instrument shall be binding upon Indemnitor, and each of them, their heirs, assigns, and legal successors, and shall inure to the benefits of Company, its successors or assigns.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this _____ day of _____, 20____.

COMPANY:
TOP EQUITY REALTY, LLC

INDEMNITOR(S):

By: _____
Its: _____

(Print Name)

AGENT:

By: _____
Its: _____

(Print Name)