**EPIC DEED SERVICE CORP**

**12211 S. Eastern Avenue, Suite 130, Henderson, NV 89052**

**(626) 287-1500 Ext. 4005**

### AGREEMENT OF EXCHANGE OF REAL PROPERTY

**AND PARTIAL ESCROW INSTRUCTION**

This Agreement of Exchange of Real Estate Property and Partial Escrow Instructions (the "Exchange Agreement") is made and entered into on **{{date\_of\_opening\_exchange}}** by and between **{{full\_taxpayer\_name\_capitalized}}{{vesting\_capitalized}}** hereinafter (**First Party)**, and **Epic Deed Service Corp, a Nevada Corporation**, hereinafter **EDSC (Qualified Intermediary).**

RECITALS:

This Exchange Agreement is made and entered into with reference to the following facts:

A. First Party is present fee ownerof that certain real property, hereinafter First Property, which is located in the City of **{{relinquished\_property\_city}}**, County of **{{relinquished\_property\_county}},** property commonly known as **{{relinquished\_property\_street}} + {{relinquished\_property\_city\_state\_zip}}** and identified with its **APN# {{apn}}.**

B. First Party desires to make a qualified tax deferred exchange of First Property for property or properties of like-kind, hereinafter Exchange Property, to be located in the future pursuant to and in accordance with Internal Revenue Code Section 1031.

C. **EDSC** desires to acquire First Property and is willing to do so by means of such exchange with First Party.

D. Both parties understand that this agreement and all instructions delivered by any party to this escrow do not and shall not entitle First Party to control over any funds until the expiration of 180 days after the date title to First Property is transferred to **EDSC** or, if earlier, the due date including extensions for First Party's federal income tax return for the taxable year in which title to First Property is transferred to **EDSC**.

NOW, THEREFORE, in consideration of the mutual covenants, conditions and agreements set forth herein, First Party and **EDSC** and each of them agree as follow:

1. EXCHANGE OF PROPERTY: First Party agrees to transfer and convey First Property to **EDSC** in consideration of and in exchange for the transfer and conveyance by **EDSC** to First Party of Exchange Property, to be located by First Party and acquired by **EDSC** pursuant to paragraph 2 below. In furtherance to be deposited in escrow a grant deed or deeds, in favor of **EDSC**, or its nominee, executed and acknowledged by First Party, of that certain property referred to herein as First Property.
2. ACQUISITION OF EXCHANGE PROPERTY:

A. If, prior to the close of escrow for the transfer of First Property to **EDSC**, First Party has located the Exchange Property acceptable for receipt in exchange for First Property, **EDSC** shall acquire and thereafter transfer and covey or cause the transfer and conveyance of the Exchange Property to First Party for a concurrent transfer and conveyance by First Party of First Property to **EDSC**.

B. If First Party has not located the Exchange Property prior to the closing of the escrow for the transfer of First Property to EDSC, the exchange shall be completed as follow:

Within 45 days from the date of the closing of the above referenced escrow First Party shall designate the Exchange Property and arrange for the terms of acquisition with the owner or owners thereof. EDSC shall immediately enter into a binding written contract with said owner or owners for the acquisition of said Exchange Property and shall transfer and convey or cause the transfer and conveyance thereof to First Party. In no event, however, shall EDSC be required to make a cash payment for said Exchange Property, including all costs and expenses of such acquisition or acquisitions, in excess of the Net Exchange Value as defined in this agreement. Further, EDSC shall not be required to assume any secured loan on the Exchange Property to be so acquired or to execute any Promissory Note or other evidence of indebtedness in connection with such acquisition or acquisitions which might impose any liability upon EDSC for repayment of such obligation continuing after the close of escrow for the Exchange Property.

If the Net Exchange Value is greater than the total cost to First Party of acquiring the Exchange Property then **EDSC** shall pay to First Party, through escrow and at the close thereof, an amount equal to the difference. If, on the other hand, the cost of the Exchange Property exceeds the Net Exchange Value, the First Party shall pay into escrow an amount in cash equal to any difference and/or shall assume (or take subject to) any indebtedness to which the Exchange Property may be subject at the time **EDSC** is required under this agreement to convey Exchange Property to First Party.

1. TIME: Time is of the essence in this Exchange Agreement.
2. TERMINATION: In the event that First Party has not designated the Exchange Property within the 45th day and prior to the 75th day following the close of escrow for the transfer of First Property to **EDSC**, either party shall have the right to terminate this Exchange Agreement. In the event the escrow for the acquisition of the Exchange Property has not closed on or before the 180th day following the close of escrow for the transfer of First Property to **EDSC**, either party shall have the right to terminate this Exchange Agreement. Termination shall be affected by delivery of written notice, sent by first class mail or personal delivery to the addresses of the parties indicated in this agreement, and this Exchange Agreement shall terminate upon receipt of such notice. If this Exchange Agreement is so terminated, **EDSC** shall within five (5) business days from the date of termination pay to First Party a sum equal to the Net Exchange Value.
3. NET EXCHANGE VALUE: The "Net Exchange Value" herein shall be the amount remaining after deducting from the exchange value of **${{consideration\_price}}.**

A. All costs and prorations set forth in paragraph 6, below, to be charged by First Party;

B. The unpaid balance as of the close of escrow of any encumbrance or notes secured by First Property, including any costs **EDSC** incurs in paying off said encumbrances or secured noted; and

C. The amount of commission specified in paragraph 14 below.

1. ESCROW:

Escrow Holder: The escrow company for the processing of the exchange of the First Property shall be:

**{{relinquished\_escrow\_company\_capitalized}}**

**{{relinquished\_escrow\_street}}**

**{{relinquished\_escrow\_city}}**

**Tel: {{relinquished\_escrow\_phone}} Fax: {{ relinquished\_escrow\_fax}}**

**Escrow No. {{r\_escrow\_number\_capitalized}} Sr. Escrow Officer- {{relinquished\_escrow\_officer}}**

**EMAIL: {{relinquished\_escrow\_officer\_email}}**

1. This Exchange Agreement shall be attached to any instructions prepared for said escrow and shall be incorporated into and form a part of such instructions. The Parties hereto, and each of them, covenant and agree to execute escrow instructions to said escrow holder consistent with the terms and provisions of this Exchange Agreement for the purpose of effecting the transfer provided herein.
2. CLOSE OF ESCROW: Escrow for the transfer of First Property to **EDSC** shall close on or before

**{{ecoe}}**.

1. PAYMENT OF COSTS: First Party shall pay all costs not provided for herein which shall relate to the First Property. If **EDSC** shall make any advances or incur any expenses under this Agreement or shall incur any expenses by reason of being a party to any litigation in connection with this Agreement, or if **EDSC** shall be compelled to pay money on account of this Agreement, whether for breach of contract, injury to person or property, fines or penalties under any law, or otherwise, except in case of **EDSC**’s willful misconduct or negligence, Taxpayer agrees on demand to pay to **EDSC**, with interest at Ten Percent (10%) per annum, the amount of all such expenses, advances or payments made by **EDSC**, plus all **EDSC**’s out-of-pocket expenses and reasonable attorney’s fees. Before making demand on First Party for any such expenses, **EDSC** shall first attempt to satisfy such expenses from the Net Exchange Value.
2. TRANSFER FOR TITLE AND POSSESSION: Title to First Property shall be transferred and conveyed and possession delivered to **EDSC** upon the Close of Escrow subject to the rights of any tenants in possession. During the escrow periods, First Party shall have sole possession, management and control of the renting, repairing, maintaining and handling of the Relinquished Property and **EDSC** shall have no right or duty in respect to any such matters. First Party shall have the right to execute leases and collect rents in its own name or through its agents. **EDSC** shall have no right or duty in respect to the payment of taxes or assessments insurance, litigation or other matters relating to the Relinquished Property or the Replacement Property, except on Taxpayer’s written direction and after the payment to it of any money necessary in its opinion to carry out the directions without liability to it. First Party is not the agent of **EDSC** for any purpose. First Party has no authority to contract or to execute leases or do any other act for or in the name of **EDSC**.
3. PRORATIONS: All property taxes and assessments, premiums on insurance to be retained by **EDSC**, rents and interest, and any other items the parties mutually and in writing agree to regarding First Property shall be prorated as of the close of Escrow. Any security deposits or advance rental fee deposits shall be transferred to **EDSC** upon Close of Escrow.
4. DELIVERY OF DOCUMENT UPON CLOSE OF ESCROW: Upon close of Escrow only an executed copy of this Exchange Agreement shall be delivered to First Party. Any and all cash and/or notes arising out of this escrow or related escrow shall be delivered to **EDSC**.
5. CONDITIONS TO TITLE: Title of First Property shall be transferred to **EDSC** free of all liens other than:

A. The general lien for general and special taxes;

B. Encumbrances as set forth in the attached instructions; and,

C. Easements and restrictions of record.

1. COMMISSION: Upon the close of Escrow a commission shall be paid to the broker or brokers, if any, as designated by First Party.
2. EXCHANGE PERSONAL PROPERTY INTERESTS: As a part of the exchange of real property interest as described herein, First Party shall transfer and convey the personal property, if any, pertaining to the First Property to **EDSC** in consideration of the transfer and conveyance by **EDSC** of all personal property located in or at the Exchange Property to First Property. Each of these transfers is part of an integrated, interdependent, mutual and reciprocal plan intended to effectuate an exchange by First Party of like-kind personal properties pursuant to and in accordance with the provisions of Internal Revenue code Section 1031 and California Revenue and Taxation Code Section 18081.
3. EXECUTION OF DOCUMENTS AND FURTHER DOCUMENTATION: As set forth above, **EDSC** agrees to execute the purchase agreement and escrow instructions for the acquisition of the Exchange Property and the concurrent transfer thereof to First Party. In addition, both parties hereto agree to execute any and all additional documents and/or exchange instructions necessary to carry out the terms of the Exchange Agreement. The cost incurred in the preparation of any documents needed to conclude this transaction shall by paid by First Party.
4. ELECTRONIC SIGNATURES: In accordance with California Civil Code § 1633.1, et seq. (The Uniform Electronic Transactions Act), some or all of the documentation in this exchange and the transaction to which it relates may be electronic records that contain one or more of the parties’ electronic signatures. By executing this agreement, the parties to this exchange agree as follows:
   1. Documents in this transaction may be created and signed electronically;
   2. One or more parties to this exchange has used or may in the future use electronic signature technology, including a digital signature, in order to express the party’s approval of and agreement to the contents of the electronic record or document;
   3. The documents or electronic records deposited to date with the First Party in electronic record form were signed by the party or parties whose signatures, whether electronic or otherwise, appear on the documents or electronic records;
   4. The documents or electronic records electronically signed by any party may be relied upon by the First Party in the same manner as any other documents or records; and
   5. The refusal of any lender involved in this transaction to accept electronically signed records or documents shall not affect this instruction or the validity of any other electronically signed record or document in this transaction.
5. COUNTERPARTS: This Exchange Agreement may be executed in counterparts and when so executed shall have the same force and effect as if one document had been signed by all parties.
6. CONFLICT WITH PRIOR AGREEMENTS: To the extent that this Exchange Agreement shall conflict with any prior written or oral agreement or understanding between the parties hereto, the terms of this Exchange Agreement shall prevail (relevant to First Party’s Exchange Instructions between First Party and Intermediary).
7. NO LEGAL, FINANCIAL OR TAX ADVICE: THE PARTIES ACKNOWLEDGE AND UNDERSTAND THAT **EDSC** IS NOT AUTHORIZED TO PRACTICE LAW NOR DOES IT GIVE FINANCIAL ADVICE. THE PARTIES ARE ADVISED TO SEEK LEGAL AND FINANCIAL COUNSEL AND ADVICE CONCERNING THE EFFECT OF THE EXCHANGE, THIS EXCHANGE AGREEMENT, OR OTHER EXCHANGE DOCUMENTS. THE PARTIES ACKNOWLEDGE THAT NO REPRESENTATIONS ARE MADE BY **EDSC** AND NO RELIANCE PLACED ON THE LEGAL SUFFICIENCY, LEGAL CONSEQUENCES, FINANCIAL EFFECTS OR TAX CONSEQUENCES OF ANYTHING WITHIN THIS EXCHANGE TRANSACTION.

First Party herein acknowledges that they have been advised by **EDSC** to seek the advice of their own independent legal and/or tax counsel for the determination of any income tax or other consequences of this Exchange, and, therefore, First Party herein fully relieves and releases **EDSC** from any and all liability regarding the same, and further indemnify and hold harmless **EDSC** from any loss which said First Party may sustain in the event this Exchange is audited by the Internal Revenue Service or applicable state agency and subsequently disallowed as a Section 1031 of the Internal Revenue Code tax deferred exchange, or a Section 453 of the Internal Revenue Code installment sale.

1. ATTORNEY FEES: In the event any party hereto shall institute legal action against any other party hereto to interpret or enforce this Exchange Agreement or to obtain damages for any alleged breach thereof, the prevailing party in such action shall be entitled to reasonable attorney's fees and expert's fees in addition to all other recoverable costs and damages.
2. 1031 CANCELLATION FEES: In the event that First Party should elect to cancel their 1031 Exchange, written notice must be provided to **EDSC**. First Party shall be entitled to the net proceeds provided from the sale of their Relinquished Property less any cancellation fees, distributed proceeds, wire fees, etc., as determined by **EDSC**. **EDSC** shall provide First Party Distribution and Wire Notices, and calculate any withholding, if necessary. First Party and **EDSC** agree that such costs, expenses, and fees shall be paid from funds already on deposit or deposited in the Exchange before any cancellation or other termination of this Exchange is effective. In the event that any Party requests cancellation of the Exchange at any time, all Parties are aware that the Exchange will not be considered cancelled and no funds will be distributed until **EDSC** has received cancellation instructions signed by First Party.
3. NOTICES: All notices or requests required by or made pursuant to this Exchange Agreement must be delivered or mailed to the party to whom the notice or request is directed as follows:

To: EDSC EPIC DEED SERVICE CORP

12211 S. Eastern Avenue., Suite 130

Henderson, NV 89052

File No. **{{exchange\_file\_number}}**

To: First Party: **{{full\_taxpayer\_name\_capitalized}}**

ADDRESS: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

PHONE: ( \_\_\_\_\_\_\_\_\_)\_\_\_\_\_\_\_\_\_\_\_-\_\_\_\_\_\_\_\_\_\_\_

EMAIL: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. DOCUMENT RETENTION: The Parties acknowledge, consent, and expressly authorize **EDSC** to convert, store, or otherwise maintain any original documents, or copy thereof submitted or otherwise provided to **EDSC** in an electronic format or medium for all purposes. Upon **EDSC**’s transfer of any document into an electronic format, it is expressly authorized without any liability to destroy the original paper documents submitted or otherwise provided to **EDSC**. The Parties to this Exchange Agreement authorize **EDSC** to destroy these Exchange Documents, and all other instructions, documents, and electronic records of this Exchange at any time after five (5) years from the completion of the Exchange, cancellation, or date of the last activity without liability and without further notice to the Parties. The Parties further acknowledge and agree that **EDSC** shall be entitled to charge a document retrieval fee to any party requesting access to an original document that is in storage in accordance with **EDSC**’s schedule of fees and charges.
2. SURVIVAL: The terms of this Exchange Agreement shall survive the Close of Escrow and the delivery of the deed to the First Property to **EDSC**.
3. BINDING: This Exchange Agreement shall insure to the benefit of and be binding upon the parties hereto, their assigns, successors in interest, heirs, and estates.
4. ASSIGNMENT: This Agreement is not assignable by either party without the written consent of the other party and any such assignment could invalidate the Exchange.
5. INTEREST ON EXCHANGE FUNDS: First Party will be paid no interest by **EDSC** when the amount of the Net Exchange Value is $5,000,000.00 or less. First Party’s client trust account will be opened paying interest in the amount of .10% annum when the Net Exchange Value is greater than $5,000,000.00. **EDSC** does not guarantee the interest rate paid to First Party as contained in this paragraph. Interest rates may fluctuate and therefore **EDSC** may adjust the rate without prior notice to or approval by First Party. First Party understands that interest paid will be treated as interest regardless of whether it is paid to First Party in cash or in property and must be reported as First Party’s income. **EDSC** shall issue IRS Form 1099 to First Party reflecting the interest earned by First Party. **EDSC** may receive interest, fees, earnings, or another form of monetary benefit from the deposit of Net Exchange Value.
6. ACKNOWLEDGMENT OF INDEPENDENT RELATIONSHIP: The parties hereto hereby acknowledge that in acquiring the Exchange Property and engaging in the activities contemplated by this agreement, **EDSC** will at all times be acting as an independent party. In no event shall **EDSC** become the agent of First Party or act as an agent of First Party. As such, First Party will not pay **EDSC** any commission or finder's fee for **EDSC**'s activities in acquiring the Exchange Property.
7. NO ATTORNEY-CLIENT RELATIONSHIP: First Party acknowledges that **EDSC** has not held itself out as engaged in the practice of law and has not established, directly or indirectly, an attorney-client relationship with First Party. It is understood and agreed that any representations or statements made by officers, directors or other agents of **EDSC** regarding legal or tax consequences may not be used or relied on by First Party. First Party represents that it has either obtained legal counsel or tax advice prior to entering this Agreement or had the opportunity to do so and has itself deemed it unnecessary to seek such advice. **EDSC** shall not be held responsible for any failure of First Party to seek and obtain legal or tax advice.
8. COVENANT OF INDEMNIFICATION: First Party intends to hold **EDSC** harmless from any claim arising out of **EDSC**'s activities contemplated by this Exchange Agreement, except for any claims arising out of **EDSC**'s failure to complete the terms of the exchange in accordance with the terms of the Exchange Agreement, and, therefore, First Party agrees as follows:
   * 1. First Party shall and does hereby agree to hold EDSC harmless and indemnify EDSC from any claim, expense, tax, or assessment of any nature or kind or from any claim whatsoever, express or implied, whether sounding in tort or in contract, that may be asserted against EDSC by any person (other than First Party), firm, corporation, governmental agency or taxing authority that may arise out of any activity related to carrying out the terms of this Exchange Agreement.
     2. First Party agrees that it has been advised by EDSC to obtain the advice and review of an attorney and accountant regarding the legal and tax implications of this Exchange Agreements and its related documentation and agreements.
     3. First Party agrees that it has not relied upon any statement or representation made by EDSC, its officers or its employees regarding the legal or tax implications of this Exchange Agreement and its related documentation and agreements.
     4. First Party agrees that in the event EDSC is required to enforce the terms of this agreement, First Party agrees to pay all costs, including reasonable attorney's Fees, and to reimburse EDSC upon demand for an expense which it may incur as a result of the execution of this Exchange Agreement.
9. SERVICE CONTRACTS: **EDSC** does not assume any responsibility with respect to service or maintenance contracts, if any, which may apply to the First Property.
10. DISASTER RELIEF IRS DEADLINE EXTENSIONS (IF APPLICABLE): In the event the IRS issues a Notice (“Disaster Relief Notice”)(Rev. Proc. 2018-58 §17.01) that applies to First Party’s 1031 Exchange, First Party must advise **EDSC**, in writing, of the applicable Notice. **EDSC** will comply with First Party’s request to extend First Party’s 45-day Identification Period and 180-day Closing Period to the applicable dates pursuant to the Notice provided by the IRS. Further, **EDSC** will provide updated documents reflecting the new 45-day Identification Period and 180-day Closing Period to First Party upon **EDSC**’s confirmation of First Party’s qualification status of the Notice.
11. TRANSACTION FEE: First Party agrees to pay **EDSC** for its participation in this exchange. The Exchange fee of $1,000.00 will be paid at the time of the closing of the Relinquished property and shall be paid from Exchange Proceeds. This fee includes one (1) Relinquished Property and one (1) Replacement Property. Each additional Replacement property will incur an additional fee of $250.00. Wire fees of $45.00 per incoming and outgoing wire will be collected from the Exchange Proceeds upon the final disbursement of Exchange Proceeds. Upon the close of the Sale, the Exchange Fee will be considered earned by **EDSC** and will not be refundable to First Party even if First Party is unable to complete the Exchange as provided in this Agreement.

IN WITNESS THEREOF, the parties hereto have executed this Exchange Agreement.

|  |  |
| --- | --- |
| Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | **TAXPAYER(S)/EXCHANGER(S):**  **{{entity}}**  By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  {{taxpayer\_name}}{{title}} |
| Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | **ACCOMMODATOR / QUALIFIED INTERMEDIARY**  **EPIC DEED SERVICE CORP**  By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Mary Quan, Exchange Coordinator |