

PTE EXCHANGE, LLC

6045-D Burke Centre Parkway  
Burke, Virginia 22015

January 1, 2007

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RE: 1031 TAX-FREE EXCHANGE-

(THE RELINQUISHED PROPERTY@) \_\_\_\_\_  
\_\_\_\_\_

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FLAT FEE FOR PROFESSIONAL SERVICES RENDERED INCLUDING  
THE FOLLOWING: ACTING AS INTERMEDIARY IN CONNECTION  
WITH THE 1031 TAX-FREE EXCHANGE; PREPARATION OF ALL  
DOCUMENTS RELATING THERETO; TELEPHONE CONFERENCES;  
TO COORDINATE DELIVERY OF NECESSARY DOCUMENTATION  
AND DISBURSEMENT OF FUNDS

FEES: \$750.00

TOTAL FEES DUE: \$750.00

## EXCHANGE AGREEMENT

THIS EXCHANGE AGREEMENT (the Agreement) is entered into this 1st day of January 2007, by and between \_\_\_\_\_ (“The “Exchanger”); and PTE EXCHANGE LLC (the “Intermediary”).

Exchanger owns that certain parcel known as \_\_\_\_\_ (Property);

Exchanger has entered into that certain sales contract dated \_\_\_\_\_, between themselves and \_\_\_\_\_;

Exchanger desires to exchange the Relinquished Property for like-kind property (hereinafter referred to as the “Replacement Property”) in such a way as to qualify the transaction for tax-deferred treatment under Section 1031 of the Internal Revenue Code of 1986, as amended (the “IRC”), the regulations promulgated thereunder, and any similar state statutes and regulations;

Exchanger, with a continued intent to complete a tax deferred exchange of like-kind property pursuant to IRC Sec. 1031, is willing to allow the amendment of the Contract to substitute Intermediary as the seller of the Relinquished Property pending the identification and acquisition of suitable Replacement Property by the Exchanger as specified herein; and

Intermediary is willing to accept and to hold in escrow the proceeds from the sale of the Relinquished Property, as set forth on the settlement statement for such closing and as received from the entity conducting such closing and to utilize such proceeds in securing, acquiring, and transferring to Exchanger suitable Replacement Property to complete the tax-deferred exchange according to the terms and conditions set forth herein:

NOW THEREFORE, in consideration of the foregoing Recitals, which Recitals are incorporated herein as a substantive part of this Agreement, the sum of Ten Dollars (\$10.00), cash in hand paid, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Subject to and conditioned upon the closing of the sale of the Relinquished Property and the terms of this Agreement, including the optional authority for the direct deeding contained in Paragraph 13 hereof, Exchanger hereby agrees to convey the Relinquished Property to Intermediary and Intermediary hereby agrees to convey to Exchanger, in exchange for the Relinquished Property, Replacement Property having an aggregate Exchange Value (as such term is hereinafter defined) equal to the Exchange Value (as such term is hereinafter defined) of the Relinquished Property as determined pursuant to Paragraph 4 hereof.

2.(a) Exchanger hereby agrees to convey all of Exchanger's right, title, and interest in and to the Relinquished Property to the Purchaser by delivery to the entity conducting such closing, on or before the closing date, of a deed conveying the Relinquished Property to the Purchaser pursuant to the provisions of Paragraph 13 hereof authorizing direct deeding. Exchanger shall in this event also execute and deliver to the entity conducting such closing, on or before the closing date, an Assignment of Sales Contract For Relinquished Property executed by Exchanger, Intermediary and the Purchaser under which Exchanger's rights and obligations under the Contract are assigned to Intermediary.

(b) Notwithstanding the provisions of the above paragraph, if Exchanger so requests in writing and Intermediary agrees, all of Exchanger's right, title and interest in and to the Relinquished Property shall be conveyed by Exchanger to Intermediary who will then convey such right, title and interest in the Relinquished Property to the Purchaser (i.e., by sequential deeding rather than by direct deeding as set forth in the above paragraph.

3.(a) In order to account for and monitor the Exchange Value (as such term is hereinafter defined) with respect to the Relinquished Property, Intermediary agrees to establish an exchange account concerning this transaction in Intermediary's books and records in favor of Exchanger (the "Exchange Account"@). The opening entry for the Exchange Account shall be the Exchange Value of the Relinquished Property as determined under Paragraph 4 hereof. Thereafter, the balance in the Exchange Account shall be reduced by (1) the Exchange Value of each Replacement Property (i.e., all amounts expended by the Intermediary in connection with the acquisition of each Replacement Property, as determined under Paragraph 5 hereof) and (2) in accordance with Paragraph 16 hereof.

(b) Intermediary shall provide Exchanger with an accounting of all transactions directly affecting the Exchange Account (hereinafter referred to as the AClosing Statement@) as soon as is administratively practical after the earlier of (1) the one hundred and eightieth (180) day after the closing of the sale of the Relinquished Property or (2) the closing of the acquisition of the Replacement Property. The Closing Statement shall: (1) include all costs incurred by the Intermediary not directly charged to (i) the Exchange Value of the Relinquished Property (as determined under Paragraph 4 hereof) or (ii) the Exchange Value of the Replacement Property (as determined under Paragraph 5 hereof) and (2) reflect all income earned, if any, on the Exchange Account as determined under Paragraph 7 hereof. In preparing the Closing Statement, Intermediary shall be relying and is entitled to rely upon information and settlement statements supplied to Intermediary by third-party settlement companies, and Exchanger hereby releases Intermediary from any and all liability whatsoever arising as a result of the Intermediary=s reliance upon such information and settlement statements.

4. With respect to the Relinquished Property, the term “Exchange Value” shall mean the total consideration received by Intermediary from the closing of the sale of the Relinquished Property. All amounts that the Exchanger, as seller, receives as a consequence of the sale of the Relinquished Property which are not included in the amount realized from the disposition of the Relinquished Property (for example, prorated rents) and transactional items that relate to the disposition of the Relinquished Property and which appear under local standards in the typical closing statement as the responsibility of the seller (for example, commissions, prorated taxes, recording or transfer taxes, and title company fees) shall be charged to Intermediary and shall reduce the Exchange Value of the Relinquished Property. All costs incurred by Intermediary in connection with conveyance of the Relinquished Property which are not included in the calculation of the Relinquished Property Exchange Value as provided in this Paragraph shall appear as separate items on the Closing Statement and shall be the responsibility of the Exchanger.

5. With respect to the Replacement Property, the term “Exchange Value” shall mean the total amounts expended by Intermediary in accordance with the provisions of this Agreement in connection with the acquisition of the Replacement Property and the conveyance of the Replacement Property to Exchanger including but not limited to, transactional items that relate to the acquisition of the Replacement Property and appear under local standards in the typical closing statement as the responsibility of the buyer (for example, commissions, prorated taxes, recording or transfer taxes, and title company fees), but excluding any existing mortgage, deed of trust or other secured loans which may be assumed by Exchanger or to which the Replacement Property is taken subject to by the Exchanger. All costs incurred by Intermediary in connection with the acquisition of the Replacement Property by Exchanger and the conveyance of the Replacement Property to Exchanger which are not included in calculation of the Exchange Value of the Replacement Property as provided in this paragraph shall appear as separate items on the Closing Statement and shall be the responsibility of the Exchanger.

6. At the closing of the sale of the Relinquished Property, the proceeds of such sale including cash, shall be transferred, assigned, and/or conveyed to Intermediary and shall be held by Intermediary pursuant to the terms of this Agreement.

7. Intermediary is instructed to deposit all cash funds received pursuant to Paragraph 6 hereof into bank accounts, savings and loan accounts, money market deposit accounts, repurchase agreements, time deposits, or such other investments as Intermediary may deem appropriate. Such cash funds are to be deposited by Intermediary into an interest-bearing account.

8. In no event and under no circumstances shall Intermediary be required to make a cash payment for the purchase price and any costs or expenses related to the acquisition Replacement Property, including any and all costs and expenses of said acquisition, in excess of the amount of the Exchange Value then-remaining in the Exchange Account.

9. In the event that cash in excess of the amount of the Exchange Value then-remaining in the Exchange Account (the “Additional Cash” is required in order to complete the acquisition of the Replacement Property:

(a) Such Additional Cash (1) shall be advanced by Exchanger to Intermediary, (2) shall be used by Intermediary to complete the acquisition of the Replacement Property, (3) shall be considered an interest-free loan from Exchanger to Intermediary, which interest-free loan shall be deemed satisfied in full upon the conveyance of the Replacement Property to Exchanger, and (4) in the event the Replacement Property is not conveyed to Exchanger, such interest-free loan shall be repaid by Intermediary to Exchanger upon the written demand of Exchanger; OR

(b) Such Additional Cash shall be advanced by Exchanger to the entity conducting the closing of the acquisition of the Replacement Property to be applied toward the acquisition of the Replacement Property.

10. For the purposes of this Agreement:

(a) The period between the date on which Exchanger transfers the Relinquished Property and midnight of the forty-fifth (45<sup>th</sup>) day thereafter is defined as the “Identification Period”.

(b) The period between the date on which Exchanger transfers the Relinquished Property and midnight of the earlier of (1) the one hundred and eightieth (180<sup>th</sup>) day thereafter or (2) the due date (including extensions) of the Exchanger’s federal income tax return for the taxable year in which the transfer of the Relinquished Property occurs is defined as the “Exchange Period”.

11. Prior to the expiration of the Identification Period, Exchanger shall deliver to Intermediary a signed written notice identifying in writing the Replacement Property, which Replacement Property may be located anywhere in the United States. Such signed written notice from Exchanger to Intermediary shall unambiguously identify the Replacement Property by street address and/or legal description. Thereafter, Intermediary shall undertake to acquire the Replacement Property upon such terms or pursuant to such agreement as Exchanger has negotiated with the seller of such Replacement Property. Provided, however, that Intermediary shall not incur any liability to Exchanger whatsoever if efforts to purchase the Replacement Property upon the terms and conditions specified by Exchanger shall be unsuccessful. Any and all sales contracts or other agreements to acquire the Replacement Property shall be executed by Intermediary or assigned by Exchanger to Intermediary on or before the date of closing of the acquisition of the Replacement Property. Title to the Replacement Property may be conveyed directly to Intermediary and Intermediary shall thereafter immediately convey the Replacement Property to Exchanger subject to such title defects or exceptions as existed prior to the acquisition of the Replacement Property by Intermediary and the parties hereby agree that Intermediary’s conveyance of the Replacement Property to Exchanger shall constitute full compliance with any express or implied warranties to which Intermediary would otherwise be subject.

In the alternative, title to the Replacement Property may be conveyed directly to Exchanger by direct deed from the seller to Exchanger in accordance with the provisions of Paragraph 13 hereof.

12. Intermediary shall not be required to and does not make any warranties or representations regarding the Relinquished Property to any person which are not guaranteed in writing by Exchanger and Exchanger hereby agrees to save, defend, and indemnify and hold Intermediary harmless from any and all liability, costs and expenses, including but not limited to reasonable attorneys' fees and court costs, incurred by Intermediary which are related in any manner to any warranties or representations regarding the Relinquished Property. Further, Intermediary shall not be required to and does not make any warranties or representations regarding the Replacement Property which would survive as to the Intermediary following conveyance of the Replacement Property to Exchanger.

13. To the extent permitted by IRC Sec. 1031 and all regulations promulgated thereunder, legal title to the Relinquished Property and/or the Replacement Property may be transferred directly from the Exchanger to the Purchaser, or from the seller of the Replacement Property to Exchanger, as the case may be. The use of such direct conveyances, however, shall require:

(a) As to the disposition of the Relinquished Property, the execution, prior to making any such direct conveyance, of an Assignment of Sales Contract For Relinquished Property from Exchanger to Intermediary, which instrument must be executed by Exchanger, Intermediary and the Purchaser of the Relinquished Property; and

(b) As to the acquisition of the Replacement Property, the execution, prior to the making of any such direct conveyance, of an Assignment of Sales Contract for Replacement Property from Exchanger to Intermediary, which instrument must be executed by Exchanger, Intermediary and the seller of the Replacement Property.

14. Exchanger acknowledges and agrees that:

(a) Intermediary shall not be required to assume any secured loan on any Replacement Property or to execute any promissory notes or other evidence of indebtedness in connection with the acquisition of the Replacement Property which would impose any personal liability upon the Intermediary or any of its officers and/or directors for the payment thereof.

(b) In no event shall Intermediary be required to pay a cash amount for the acquisition of the Replacement Property, including any and all costs and expenses incurred in connection with such acquisition, in excess of the Exchange Value then-remaining in the Exchange Account.

(c) Intermediary shall act only in accordance with the instructions of Exchanger and the terms of this Agreement in acquiring the Replacement Property, and may refuse to proceed with such acquisition in the event that the Exchanger's instructions exceed the scope of or are otherwise inconsistent with the provisions of this Agreement.

15. All interest earned on the Exchange Account, if any, shall be for the benefit of Exchanger and shall be reported as interest income on Exchanger's tax return, regardless of whether said interest is applied to the purchaser of Replacement Property or is received by Exchanger in cash as part of the distribution of the Exchange Account to Exchanger upon termination of this Agreement.

16. Notwithstanding the provisions of Paragraph 17 hereof, Exchanger shall have the right to be reimbursed for expenses paid by Exchanger for the disposition of the Relinquished Property or the acquisition of the Replacement Property if (1) Exchanger requests such reimbursement in writing and (2) such reimbursement is authorized under Treasury Regulation Sec. 1.1031(k)-1(g)(7)(ii).

17. Except as provided in Paragraph 16 hereof, Exchanger shall not have any rights to receive all or any portion of the money or other property held in the Exchange Account, nor any interest or other growth factor thereon, nor to receive, pledge, borrow or otherwise obtain the benefits of such money or other property. Notwithstanding the foregoing provisions of the Paragraph.

(a) If Exchanger has not identified Replacement Property by the end of the Identification Period, Exchanger shall have the right to receive, pledge, borrow or otherwise obtain the benefits of such money or other property at any time after the expiration of the Identification Period.

(b) If Exchanger has identified Replacement Property, Exchanger shall have the right to receive, pledge, borrow or otherwise obtain the benefits of such money or other property upon or after:

(1) The receipt by Exchanger of all of the Replacement Property to which Exchanger is entitled under the terms of this Agreement; or

(2) The occurrence after the end of the Identification Period of a material and substantial contingency that:

(i) Relates to the deferred exchange;

(ii) Is provided for in writing; and

(iii) Is beyond the control of Exchanger and of any disqualified person (as such terms are defined in Treasury Regulations Sec. 1.1031(k)-1(k), other than the person obligated to transfer the Replacement Property to Exchanger.

18. This Agreement shall terminate and the then remaining balance in the Exchange Account shall be paid to Exchanger as soon as is administratively practical upon the earlier to occur of:

(a) One or more of the events set forth in subparagraphs (a), (b)(1) or (b)(2) of Paragraph 17 hereof; or

(b) The expiration of the Exchange Period.

19. Any dispute as to the interpretation of the Contract and/or the extent or applicability of this Agreement or Exchanger's instructions to Intermediary shall be immediately arbitrated. In such a case:

(a) Exchanger shall select any arbitrator on the then-existing arbitration panel of the American Arbitration Association, who primarily deals in real property matters.

(b) Within three (3) business days after the arbitrator's selection and acceptance of appointment and written notification to Intermediary, Exchanger and Intermediary shall each furnish to the other and to such selected arbitrator a written statement of their respective positions regarding said dispute and shall furnish, as reasonably requested by arbitrator, any further answering or explanatory statements that the arbitrator may require.

(c) The parties agree that the decision of such arbitrator shall be final, binding and conclusive upon such parties and that such arbitration shall be the sole dispute resolution mechanism available to the parties to resolve such dispute or to obtain any judicial determination with respect to such dispute.

(d) Except as provided in subparagraphs (e) and (f) of this Paragraph, the costs of arbitration are to be borne equally by Exchanger and Intermediary and each party shall be responsible solely for its own attorneys' fees.

(e) In any controversy, claim, or dispute between the parties arising out of or relating to this Agreement or the breach thereof, the prevailing party shall be entitled to receive from the other party reasonable expenses, including reasonable attorneys' fees and court costs.

(f) The prevailing party shall be entitle to enforce the decision of the arbitrator by obtaining a judgment, which judgment shall include reasonable attorneys' fees and court costs in the Circuit Court of Fairfax County, Virginia.



20. All notices provided for or required to be given under this Agreement shall be deemed to have been duly given, served and delivered if mailed by United States registered or certified mail addressed to the party entitled to receive the same at the address specified in this Agreement; provided, however, that any party may change its mailing address by giving to the other parties written notice of its new mailing address, and any notice so given shall be deemed to have been given, served, and delivered on the date following the date on which said notice was mailed in the manner herein provided.

21. Time is of the essence in this Agreement.

22. This Agreement may not be amended or modified in any respect whatsoever except by an instrument in writing signed by the parties hereto. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof. If any provisions of this Agreement shall be held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of any other provision hereof.

23. This Agreement shall be governed by and construed according to the laws of the Commonwealth of Virginia. This Agreement may be executed in multiple counterparts, each of which so executed shall, irrespective of the date of its execution and delivery, be deemed an original, and said counterparts together shall constitute one and the same agreement.

24. This Agreement shall inure to the benefit of and be binding upon the parties and their respective heirs, legatees, devisees, administrators, executors, personal representatives or other legal representatives, successors and assigns.

25. The parties hereto understand, acknowledge and agree that Intermediary is not making any representation concerning any of the tax consequences of the exchange effectuated pursuant to this Agreement including, but not limited to, the qualification of any such exchange for tax-deferred treatment under IRC Sec. 1031.

IN WITNESS WHEREOF, the parties hereunto set their hands and seals this 1<sup>st</sup> day of January 2007.

ADDRESS FOR NOTICES  
TO BE MAILED

EXCHANGER:

\_\_\_\_\_ (SEAL)

ADDRESS FOR NOTICES  
TO BE MAILED

INTERMEDIARY:

PTE EXCHANGE, LLC

6045D Burke Centre Parkway  
Burke, Virginia 22015

By: \_\_\_\_\_ (SEAL)  
John F. Richter, Manager