

# WHAT LANGUAGE SHOULD BE ADDED TO THE CONTRACT IN AN EXCHANGE?



## CONTRACTS MUST BE ASSIGNABLE

It is important, however, that the Purchase and Sale Agreements for both properties are assignable. In order to structure a typical exchange transaction, a Qualified Intermediary must be assigned in as the Seller of the relinquished property and also as the Buyer of the replacement property. An Exchanger should review the contract to confirm they are not prohibited from assigning their position as either a "Seller" or "Buyer" to a Qualified Intermediary. When a typical exchange is initiated by a Qualified Intermediary is shown as the Seller on the Settlement Statement instead of the Exchanger being reflected as the Seller.

## SALE OF RELINQUISHED PROPERTY

"Buyer is aware that Seller intends to perform an IRC Section 1031 tax deferred exchange. Seller requests Buyer's cooperation in such an exchange and agrees to hold buyer harmless from any and all claims, costs, liabilities, or delays in time resulting from such an exchange. Buyer agrees to an assignment of this contract by the Seller."

## PURCHASE OF REPLACEMENT PROPERTY

"Seller is aware that Buyer intends to perform an IRC Section 1031 tax deferred exchange. Buyer requests Seller's cooperation in such an exchange and agrees to hold seller harmless from any and all claims, costs, liabilities, or delays in time resulting from such an exchange. Seller agrees to an assignment of this contract by the Buyer."

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