

PURCHASE AND SALE AGREEMENT AND ESCROW INSTRUCTIONS

This Purchase and Sale Agreement and Escrow Instructions ("Agreement") is entered into effective as of _____, 20____ ("Effective Date"), between _____, a _____ ("Seller") and _____ or its designee pursuant to Section 16.12 below ("Buyer"), and constitutes an agreement for purchase and sale between the parties and joint escrow instructions to the Escrow Agent identified herein and is made with reference to the following facts:

RECITALS

A. Seller owns fee simple title to a certain parcel of land located at _____ in _____, California as more particularly described on Exhibit A attached hereto (the "Land").

B. Seller also owns an approximately _____ square foot retail shopping center (the "Shopping Center"), an approximately _____ square foot office building (the "Office Building") and an approximately _____ square foot medical office building (the "Medical Building"), each located on the Land. The Shopping Center, the Office Building and the Medical Building are sometimes collectively referred to herein as the "Buildings".

C. Seller also owns certain improvements related to the Buildings, including but not limited to parking areas, driveways, landscaping and related improvements and all equipment and fixtures owned by Seller attached to such improvements and located at and used in connection with the ownership, operation and maintenance of the Buildings or such improvements, including without limitation all heating, lighting, air conditioning, ventilating, plumbing, electrical or other mechanical equipment, used in connection therewith (collectively with the Buildings, the "Improvements"). The Land and the Improvements are sometimes hereinafter collectively referred to as the "Real Property."

D. Seller also owns an interest in certain contracts and agreements in connection with the ownership, operation, management and maintenance of the Real Property, as set forth on Exhibit B attached hereto (collectively, the "Contracts").

E. Seller also owns certain intangible property used in connection with the ownership and operation of the Real Property, including but not limited to, governmental licenses; plans and specifications for the Improvements; all licenses, permits, warranties, franchises, occupancy and use certificates, authorizations, consents, variances, waivers, approvals and the like for the Real Property; and all warranties or guarantees from any contractors, subcontractors, suppliers or materialmen in connection with the Real Property (collectively, the "Intangible Property").

F. Seller also owns certain interests in the leases described on Exhibit C attached hereto ("Leases").

G. The Land, the Improvements, the Contracts, the Leases, and the Intangible Property are sometimes collectively referred to in this Agreement as the "Property". IS ANY PERSONAL PROPERTY TRANSFERRING? IF SO, PLEASE ATTACH A BILL OF SALE AND LIST OF PERSONAL PROPERTY.

H. Seller desires to sell the Property to Buyer and Buyer desires to purchase the Property, all on the terms and conditions in this Agreement.

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and adequacy of which are acknowledged, Buyer and Seller agree as follows:

ARTICLE 1

PURCHASE AND SALE

1.1 Purchase and Sale. On the terms and conditions set forth herein, Seller agrees to sell to Buyer the Property, and Buyer agrees to purchase from Seller the Property.

ARTICLE 2

AGREEMENT OF SALE AND PURCHASE PRICE

2.1 Purchase Price. The purchase price for the Property shall be _____ Dollars (\$_____) ("Purchase Price").

2.2 Payment of Purchase Price. The Purchase Price shall be payable as follows:

2.2.1 Deposit. Concurrently with the execution of this Agreement by Buyer, Buyer shall deliver to Escrow Agent, Cash in the amount of _____ ("Initial Deposit"). If Buyer approves all matters pursuant to Section 4.2.1 and 4.2.2 on or before the Contingency Date, Buyer shall make an additional deposit in Cash with Escrow Agent in the amount of _____ ("Additional Deposit") on or before the date which is two (2) business days after the expiration of the Contingency Date.

The Initial Deposit and the Additional Deposit shall be referred to herein collectively as the "Deposit." The entire Deposit together with interest earned shall become non-refundable on the Contingency Date ~~and shall be released to Seller without the need for further escrow instructions.~~ The Deposit together with interest earned shall be applicable to the Purchase Price at the Close of Escrow. In the event Buyer gives its notice of disapproval pursuant to Section 4.2, this Agreement shall, without the need for further instructions, automatically terminate and Escrow shall return the Initial Deposit together with interest earned to Buyer. In the event of a default hereunder by Buyer after the Contingency Date, the Deposit shall be treated as liquidated damages pursuant to Article 14.

2.2.2 Interest. All funds deposited in Escrow by Buyer ~~until released to Seller~~ shall be placed in a federally insured market rate interest-bearing account with all interest accrued thereon payable to Buyer.

2.2.3 Balance of Purchase Price. Buyer shall deliver to Escrow Agent on the Close of Escrow, Cash representing the balance of the Purchase Price due ~~plus all amounts due~~ as adjusted pursuant to Sections 3.6.2, 10 and 11.

ARTICLE 3 **CLOSING**

3.1 Opening of Escrow. No later than one (1) business day after the execution of this Agreement by Buyer and Seller, the Buyer and Seller shall open an Escrow at _____ Title Insurance Company, _____, California _____, Attention: _____ ("Escrow Agent") and shall deliver a fully executed copy of this Agreement to Escrow Agent.

3.2 Close of Escrow. Escrow shall close on the Closing Date as set forth in Section 3.3 below.

3.3 Closing Date. The Closing Date shall occur on or before a date which is _____ days after the Contingency Date. ("Closing Date"); provided however that if the Closing Date falls on a Saturday, Sunday or a holiday, the Closing Date shall be the next business day thereafter.

3.4 Escrow Instructions. The parties agree to execute such additional supplemental escrow instructions not inconsistent with this Agreement as Escrow Agent may reasonably require in order to facilitate the consummation of the transactions contemplated in this Agreement, and otherwise to conform to the usual practice of Escrow Agent, provided such instructions do not conflict with the provisions hereof. If such an escrow instruction is contrary to, or inconsistent with, a provision of this Agreement, the provision of this Agreement controls.

3.5 Seller's Delivery at Closing. On or before the Closing Date, Seller shall deliver into Escrow the following documents:

3.5.1 Grant Deed. A grant deed in recordable form and duly executed on behalf of Seller conveying to Buyer the Real Property in fee simple free and clear of all liens or encumbrances except for the Permitted Exceptions ("Grant Deed").

3.5.2 Assignment of Intangible Property. A duly executed assignment of the Intangible Property ("Assignment of Intangible Property") substantially in the form of Exhibit "D" attached hereto

3.5.3 Assignment of Leases. A duly executed assignment and assumption of the Leases substantially in the form attached hereto as Exhibit E (the "Assignment of Leases");

3.5.4 Assignment of Contracts. A duly executed assignment of the Contracts ("Assignment of Contracts") substantially in the form attached hereto as Exhibit F;

3.5.5 IRS. Seller's affidavit that Seller is not a foreign person as defined in the Internal Revenue Code of 1986, as amended (42 USCS §1445(f)(3)). The affidavit shall be in the form prescribed by federal regulations;

3.5.6 FTB. A duly executed Certificate by Seller in favor of Buyer as required under Revenue and Taxation Code §§18662 and 18668;

3.5.7 Fees. The amount, if any, required of Seller under Article 10, entitled "Proration," and Article 11, "Costs and Fees;"

3.5.8 Other Documents. Any other documents or instruments reasonably required to close the transaction contemplated hereby.

The failure of Seller to make any delivery described above by the Closing Date shall constitute a material breach hereof by Seller, provided that the conditions to such delivery, if any, have been fulfilled or waived

3.6 Buyer's Delivery at Closing. Buyer shall, on or before the Closing Date, deliver to Escrow Agent each of the following:

3.6.1 Cash. Cash representing the balance of the Purchase Price;

3.6.2 Fees. The amount, if any, required of Buyer under Article 10, entitled "Prorations" and Article 11 entitled "Costs and Fees;"

3.6.3 Assignment of Contracts. A duly executed Assignment of Contracts;

3.6.4 Assignment of Intangible Property. A duly executed Assignment of Intangible Property;

3.6.5 Assignment of Lease. A duly executed Assignment of Lease;

3.6.6 Other Documents. Any other documents or instruments reasonably required to close the transaction contemplated hereby.

The failure of Buyer to make any delivery described above by the Closing Date shall constitute a material breach hereof by Buyer, provided that the conditions to such delivery, if any, have been fulfilled or waived.

3.7 Seller's Deliveries Outside of Escrow. On the Closing Date, Seller shall deliver to Buyer, outside of Escrow, the following:

(a) Manuals. All instruction manuals, procedure manuals, manufacturer's warranties and similar materials in Seller's possession which relate to the Property.

(b) Keys. All keys and access cards to, and combinations to locks and other security devices located at, the Property, if applicable;

Escrow Agent shall have no concern or responsibility for the delivery or receipt of the items described in this Section 3.7.

3.8 Completion of Documents. Escrow Agent is authorized to collate counterparts of documents deposited into Escrow, to insert the Closing Date as the effective date where appropriate, and to otherwise complete such documents in accordance with instructions received by both parties, where appropriate and consistent with this Agreement.

ARTICLE 4

CONDITIONS TO CLOSE OF ESCROW

4.1 Contingency Date. The "Contingency Date" shall mean 5:00 p.m. on a date which is _____ days after the Effective Date.

4.2 Conditions Precedent. Seller and Buyer agree that the Closing is subject to the satisfaction or waiver of the following conditions precedent:

4.2.1 Due Diligence. Buyer, in its sole and absolute discretion, shall have until the Contingency Date to approve all matters relating to the Property. The matters subject to Buyer's approval pursuant to this subparagraph 4.2.1 shall include, but not be limited to, Project Documents (as defined in Section 6.2), the PR, economic and market projections, the availability of financing, the physical condition of the Property, including the physical condition of the Real Property, the conditions of soils, sub-surface, geologic and seismic, Hazardous Materials (as defined in Section 18.12.7), the natural hazard disclosure report given pursuant to Section 6.2, all laws, ordinances, approvals, permits, regulations, or similar governmental limitations or restrictions affecting the Property. If Buyer fails to give written notice to Seller and Escrow Agent of its disapproval of all such matters on or before the Contingency Date, then Buyer shall be deemed to have ~~approved~~ disapproved the matters subject to its due diligence review as set forth herein, and ~~the contingency set forth in this Section 4.2.1 shall be deemed satisfied~~ this Agreement and the Escrow granted hereunder shall be deemed terminated and Escrow Agent shall return the Deposit to Buyer without further notice to or approval from Seller.

4.2.2 Tenant Estoppel Certificates. Buyer shall have received from Seller on or before the Closing Date, tenant estoppel certificates ("Tenant Estoppel Certificates") duly executed by all tenants under the Leases ~~or~~ (or if despite Seller's best efforts not all tenants return estoppels, a landlord's estoppel

certificate from no more than 10% of the tenants in substantially the form attached hereto as Exhibit G.

4.3 Buyer Waiver. If the foregoing conditions precedent set forth in Sections 4.2.1 and 4.2.2 have not been satisfied in accordance with its terms, such condition may be waived by Buyer unilaterally, in its sole and absolute discretion. If so waived, such condition shall be of no further effect hereunder. Any such waiver shall be effective only if the same is (i) in writing signed by the Buyer, and (ii) delivered to the Seller and Escrow Agent on or before the date the waived condition is to be satisfied.

4.4 Failure of Conditions. If the conditions set forth in Sections 4.2.1 and 4.2.2 above are not satisfied, deemed satisfied or waived in accordance with its terms, then either Buyer or Seller may unilaterally terminate this Agreement and the Escrow by giving written notice of termination to Escrow Agent (with a copy to the other party) on or before the Closing Date (but in no event after the Closing). In the event of such termination, and except as provided below, Buyer's Deposit shall immediately be returned to Buyer and neither party shall have any further rights or obligations hereunder, except for any liability or obligation of Buyer and Seller, if any, pursuant to those provisions which survive termination of this Agreement under the express terms of this Agreement.

4.5 Return of Documents. If this Agreement and the Escrow are terminated as a result of non-satisfaction of the condition set forth in Section 4.2.1 and 4.2.2 or as a result of Buyer's default, Buyer shall return to Seller, within ten (10) days after such termination, all studies, reports, plans and other documents and information relating to the Property delivered by Seller to Buyer, and any no prior legal reports or studies obtained by Buyer from its own investigation, without cost to Buyer or any representation or warranty of any kind and subject any applicable rights or restrictions of third parties, including but not limited to those of any consultants who may have prepared such reports or studies for Buyer.

ARTICLE 5

TITLE

5.1 Delivery of PR. A preliminary report for the Real Property ("PR") issued by _____ Title Insurance Company ("Title Company") ~~is~~ and legible copies of all underlying documents are attached hereto as Exhibit I. During the period between the Effective Date and the Closing or earlier termination of this Agreement, Seller shall not create any further liens or encumbrances to title without Buyer's prior written consent, which ~~shall not be unreasonably~~ may be withheld or conditioned in Buyer's sole discretion. Seller shall be obligated, at or before Closing, to (i) remove all deeds of trust; and (ii) remove all other monetary liens on the Property, other than liens for taxes and assessments that are not yet due and payable and accrue with respect to periods after Closing and liens that result from the actions of Buyer.

5.2 Permitted Exceptions. The following matters shall be deemed permitted exceptions to title to the Real Property ("Permitted Exceptions") and Buyer shall take title to the Real Property subject thereto:

5.2.1 The lien of current, non-delinquent real estate taxes and assessments not that due and owing as of the Closing Date;

5.2.2 The lien of any supplemental taxes assessed pursuant to Chapter 3.5 commencing with Section 75 of the California Revenue and Taxation Code not that due and owing as of the Closing Date;

5.2.3 The approved exceptions set forth in the PR; and

5.2.4 Any other exceptions which are requested, solely caused by or approved in writing by Buyer in its sole discretion.

5.3 Supplemental PRs. If the Title Company issues any supplement to the PR prior to the Closing Date, which identifies any additional exceptions not listed in the PR, Buyer shall have the right to deliver written notice of its objection to the same, in writing, to Seller and Escrow Agent within five (5) business days after receipt of such supplemental report with respect to the new exceptions identified in such supplemental report. If Buyer disapproves one or more exceptions in the supplemental report within such five (5) day period, Seller shall have the right, but not the obligation, to cure and cause such disapproved exception to be deleted from the supplemental report by delivering written notice to Buyer and Escrow Agent indicating that Seller will eliminate such exception(s) prior to the Close of Escrow. If Seller delivers such written election to cure disapproved exceptions within five (5) business days after receipt of Buyer's notice of disapproval, Seller shall have until the Close of Escrow to complete the cure. If Seller fails to deliver written notice to cure any disapproved exception within such five (5) business day period, Seller shall be deemed to have elected not to cure the disapproved exceptions. If Seller does not elect to cure or is deemed to have elected not to cure such disapproved exceptions as described above, Buyer shall elect one of the following, by delivering written notice to Seller and Escrow Agent by 5:00 p.m. within five (5) business days after Seller has elected not to cure such disapproved exceptions or has been deemed not to cure such disapproved exception: (i) to waive its objections, take title subject to such disapproved exceptions and proceed to close the Escrow; or (ii) to terminate this Agreement and the Escrow, in which event Buyer's Deposit and interest earned thereon shall be returned to Buyer and neither party shall have any further rights or obligations hereunder (except for any liability or obligation of Buyer pursuant to those provisions which survive termination of this Agreement under the express terms of this Agreement). If Buyer fails to deliver written notice of its election prior to the applicable deadline, Buyer will be deemed to have elected to waive its objections as described in (i) above. The Closing Date shall be extended as necessary to allow for the notice and response periods specified above to be implemented, provided that the total period of such extension shall not exceed fifteen (15) business days in the aggregate.

5.4 Natural Hazards Disclosure. Seller shall deliver to Buyer a disclosure prepared by a Title Company or other reputable person or entity approved by Buyer regularly performing natural hazard disclosure services regarding the Real Property as follows:

(a) Whether or not the Real Property is located in an earthquake fault zone as described under the Alquist – Priolo Earthquake Fault Zoning Act (Public Resources Code Sections 2621-2630) and/or a seismic hazard zone as described under the Seismic Hazards Mapping Act (Public Resources Code Sections 2690-2699.6);

(b) Whether or not the Real Property is located in a Special Flood Hazard Area designated by the Federal Emergency Management Agency;

(c) Whether or not the Real Property is located in a State Fire Responsibility Area; and

(d) Whether or not the Real Property is located in a Mello Roos Special Assessment District(s).

ARTICLE 6 **INSPECTION**

6.1 Inspection of Property. From and after the Effective Date, Seller shall make available to Buyer reasonable access to the Improvements during reasonable business hours and with reasonable advance notice to Seller for Buyer's inspection, investigation, and approval, in Buyer's sole and absolute discretion, and at Buyer's sole cost and expense, the physical, geological, and environmental condition and use of the Real Property, including without limitation, the availability of access, utility services, zoning, environmental risks, engineering, and the soil conditions. Buyer agrees to indemnify Seller and to hold Seller, Seller's agents and employees, harmless from any losses, costs, damages, claims, or liabilities, including but not limited to, mechanics' and materialmen's liens and attorneys' fees, arising in connection with Buyer's entry upon the Real Property under this Section 6.1. In the event the Escrow does not close due to an election by the Buyer not to purchase the Property, or a default by Buyer, and in the event Buyer has caused damage to the Real Property, Buyer shall, at its sole cost and expense, restore the Real Property with respect to such damage to the same physical condition it now enjoys as is reasonably possible, and shall repair any physical damage caused by Buyer to the Real Property. Buyer, or its agent, employees and contractor will secure and maintain, at Buyer's or such other person's sole cost, the following policies of insurance, which shall include coverage of Buyer's activities on the Real Property: (1) comprehensive public liability and property damage insurance, including direct contractual and contingent liabilities with limit of _____ dollars (\$_____) for personal liability to or for the death of any one person, _____ dollars (\$_____) for personal injury to or death of any one person on an occurrence basis, and a _____ dollar (\$_____) policy limit for aggregate operation on an occurrence basis. Policies of insurance described above shall each

name Seller as an additional insured and shall contain a provision that such insurance may not be terminated until thirty (30) days after written notice of the proposed termination to Seller. Certificates of such insurance shall be delivered by Buyer to Seller before entering onto the Property by Buyer or its agents, contractors or employees. Buyer shall not permit any liens of mechanics, materialmen, contractors, subcontractors, or other lien arising from any work done by Buyer or its agents pursuant to this Agreement, to be filed against the Property. If any such lien shall be filed against the Property, Buyer shall cause the same to be discharged or bonded within thirty (30) days after the receipt of actual notice of such filing, by payment, deposit, bond, or otherwise. Buyer's obligations under this Article shall survive the termination or expiration of this Agreement by Closing or otherwise.

6.2 Delivery Of Documents. Seller has delivered to Buyer electronic copies of the studies, reports and documents relating to the Property in its possession or control and same are listed on Exhibit H attached hereto ("Project Documents"). Buyer acknowledges that Seller has recently acquired the Project through a foreclosure proceeding and that except as set forth herein, the Project Documents are provided without any representation or warranty (whether oral or written, express or implied) by Seller as to their accuracy, sufficiency or lack of defects; and the foregoing are provided on the express condition that Buyer shall make its own independent verification of such information, except that Seller shall advise Buyer of any material inaccuracies, deficiencies or defects in the foregoing of which Seller has actual knowledge.

6.3 Investigation. Buyer represents and warrants that on or before the Closing it will have employed its consultants as it deems necessary, in its sole discretion, and will have conducted investigations of the Property. Buyer acknowledges that upon the Closing it will have approved all things concerning the Property which Buyer deems material to its purchase and the use and ownership of the Property, including, but not limited to, topography, geology, Hazardous Materials, condition of the soil, condition of title to the Property, availability and capacity of utilities and sanitary facilities (including, without limitation, water, sewer, electricity, gas, telephone, cable television), suitability for intended use, zoning, availability of fire and police protection, the possibility of moratoria, land use regulations of the City, and the feasibility and availability of building permits and other entitlements from the City for the development of the Property.

6.4 "As Is" Purchase. Except as otherwise specifically provided for in this Agreement, Buyer shall accept the Property in an "AS-IS, WHERE-IS" condition, and acknowledges that, except as otherwise specifically provided in this Agreement, Seller has not made and do not make any warranty or representation whatsoever as to the condition of the Property, whether express or implied. Buyer warrants and represents that Buyer is purchasing the Property solely in reliance on Buyer's own investigation and that Seller, except as specifically provided for in this Agreement, has not made, does not make and specifically negates and disclaims any representations, warranties or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past, present, future or otherwise, of, as to, concerning or with respect to the Property, including, without limitation, (1) environmental matters relating to the Real

Property or any portion thereof; (2) geological conditions, including, without limitation, subsidence, subsurface conditions, water table, underground water reservoirs, limitations regarding the withdrawal of water and faulting; (3) whether or not and to the extent to which the Real Property or any portion thereof is affected by any stream (surface or underground), body of water, flood prone area, flood plain, floodway or special flood hazard; (4) drainage; (5) soil conditions, including the existence of instability, past soil repairs, soil additions or conditions of soil fill, or susceptibility to landslides, or the sufficiency of any undershoring; (6) zoning to which the Real Property or any portion thereof may be subject; (7) the availability of any utilities to the Real Property or any portion thereof including, without limitation, water, sewage, gas and electric; (8) usages of adjoining property; (9) access to the Real Property or any portion thereof; (10) the value, compliance with the plans and specifications, size, location, age, use, design, quality, description, durability, structural integrity, operation, title to, or physical condition of the Real Property or any portion thereof, or any income, expenses, charges, liens, encumbrances, rights or claims on or affecting or pertaining to the Real Property or any part thereof; (11) the presence of Hazardous Materials in or on, under or in the vicinity of the Real Property; (12) the condition or use of the Real Property or compliance of the Real Property with any or all past, present or future federal, state or local ordinances, rules, regulations or laws, building, fire or zoning ordinances, codes or other similar laws; (13) the existence or non-existence of underground storage tanks; (14) any other matter affecting the stability or integrity of the Real Property; (15) the potential for further development of the Real Property; (16) the existence of vested land use, zoning or building entitlements affecting the Real Property; (17) the merchantability of the Property or fitness of the Property for any particular purpose; or (18) the Leases. Buyer acknowledges that it has or will complete all physical and financial examinations relating to the acquisition of the Interests hereunder and will acquire the same solely on the basis of such examinations, the Project Documents and the title insurance protection afforded by the Title Policy and not, except as specifically provided for in this Agreement, on any information provided or to be provided by Seller.

6.5 Waiver and Release. Effective as of and upon the Close of Escrow, Buyer waives any and all rights to recover from Seller and its members and affiliates, and their respective shareholders, directors, officers, employees, members, agents, successors and assigns, for any and all liabilities, liens, claims, damages, costs, expenses, suits or judgments (including attorneys' fees and court costs), whether direct or indirect, known or unknown, foreseen or unforeseen (collectively, "Claims"), which may arise from or are in any way connected with the physical conditions of the Real Property or any Laws or Environmental Laws now or hereafter applicable thereto, including, but not limited to, Claims arising from or related to soils, the physical condition of the Improvements or the Land, Hazardous Materials, subsurface, geotechnical, seismic, hydrological or environmental conditions of the Property; provided, however, that the foregoing shall not limit Buyer's remedies in the event of Seller's breach of any express representation or warranty set forth in Section 7.1.1. Buyer expressly waives the benefits of Section 1542 of the California Civil Code, which provides as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

BUYER: _____

ARTICLE 7

REPRESENTATIONS AND WARRANTIES

7.1 Warranties of Parties.

7.1.1 **Seller's Warranties.** Seller represents and warrants as of the date hereof and of the Closing Date:

(a) Seller is a limited liability company, duly formed, existing and in good standing under the laws of the State of _____; Seller has full legal right, power and authority to execute and fully perform its obligations under this Agreement pursuant to its governing instruments, without the need for any further action; and the persons executing this Agreement and other documents required hereunder on behalf of Seller are the duly designated agents of Seller and are authorized to do so.

(b) To the best of Seller's actual knowledge, no legal actions are pending or threatened against the Property;

(c) Seller is not a foreign person and is a "United States Person" as defined in Section 7701 (a) (30 of the Internal Revenue Code of 1986, as amended.

(d) The individual(s) executing this Agreement and the instruments referenced herein on behalf of Seller has the legal power, right, and actual authority to bind Seller to the terms and conditions hereof and thereof.

(e) To Seller's knowledge, attached as Exhibit ___ hereto is a true, correct and complete copy of the rent roll for the Property contained in Seller's asset management computer system as of the date indicated thereon. To Seller's knowledge, Seller has not received any written notice of any material default by Seller under its obligations under any Lease. Seller has not received any written notice of any tenant being in default of their obligations under the Leases, except as noted on the Rent Roll.

(f) There are no written maintenance, utility, telecommunications, janitorial, gardening or other service, supply or vendor contracts for the operation of the Property and the Improvements other than those Contracts listed on Exhibit F hereto. Seller has not

received any written notice of any material default by Seller under any of the Service Contracts that will not be terminated on the Closing Date.

(g) Seller has not received any written notice that the Property or the present use and condition of the Property violates any laws, ordinances or codes, nor to Seller's knowledge is there any such violation.

(h) Seller (a) is not acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by any Executive Order or the United States Department of the Treasury as a terrorist, "Specially Designated and Blocked Persons", or other banned or blocked person, group, entity, nation or transaction pursuant to any law, order, rule, or regulation that is enforced or administered by the Office of Foreign Asset Control of the United States Department of the Treasury; and (b) is not knowingly engaged, directly or indirectly, in any dealings or transactions and is not otherwise associated with such person, group, entity or nation.

(i) Except as disclosed to Buyer in writing, Seller has not received any notice of any violations of applicable environmental laws from any governmental authority or agency.

(j) To Seller's knowledge, the Project Documents are the same documents maintained in Seller's files, which Seller relies on in maintaining and operating the Property.

(k) No third party has an option to purchase, right of first refusal, right of first offer or other similar right with respect to all or a portion of the Property, and Seller has entered into no other contracts for the sale of all or any portion of the Property with any third party. Prior to the Closing, Seller shall not enter into any option to purchase, right of first refusal, right of first offer or other similar agreement with respect to the purchase and sale of the Property or any other agreement which would render Seller unable to convey the Property to Buyer at the Closing.

7.1.2 Later Knowledge. If Seller: (i) learns of anything that would make Seller in material breach of the warranties and representations set forth in Section 7.1.1 prior to the Closing Date; or (ii) learns of anything that would make any of the warranties and representations materially untrue if they were considered as being made as of the Closing Date, Seller shall notify Buyer in writing of such event. Seller shall have ten (10) days after such written notice to attempt to cure any such breach. If Seller fails to cure such breach alleged in the notice, Buyer shall either: (i) terminate this Agreement, and the parties hereto shall be relieved of all liabilities and obligations hereunder, except for matters which specifically survive termination by the terms hereof and Seller shall return the Deposit to Buyer; or (ii) waive its rights on such account not to consummate the transaction herein contemplated, in which case Buyer shall be deemed to

have waived all rights and remedies with respect to those matters specifically set forth in such notice.

7.1.3 Mutual Warranty. The parties warrant that the persons executing this Agreement on the parties' behalf are authorized to do so, and upon execution, this Agreement shall be binding upon Buyer or Seller, as the case may be.

7.1.4 Buyer's Warranties. Buyer represents and warrants as follows as of the date hereof and of the Closing Date:

(a) Buyer is a _____, duly formed, existing and in good standing under the laws of the State of _____; Buyer has full legal right, power and authority to execute and fully perform its obligations under this Agreement pursuant to its governing instruments, without the need for any further action; and the persons executing this Agreement and other documents required hereunder on behalf of Buyer are the duly designated agents of Buyer and are authorized to do so;

(b) This Agreement and all documents executed by Buyer which are to be delivered to Seller at the Closing are, and at the time of Closing will be duly executed and delivered by Buyer, and are and at the Closing will be legal, valid, and binding obligations of Buyer, and do not and at the time of Closing will not, violate any provisions of any agreement or judicial order to which Buyer is a party or to which it is subject.

(c) There is no litigation pending or, to Buyer's knowledge, threatened, against Buyer before any court or administrative agency which might result in any material adverse change in the business or financial condition of the Buyer, nor is there any basis for such litigation or administrative action.

(d) Buyer has access to adequate financial resources to make timely payment of all sums due from Buyer hereunder and to perform all of its obligations hereunder.

7.2 Survival of Warranties and Obligations. The representations and warranties given by Buyer and Seller in this Article 7, and all obligations under this Agreement to be performed after Close of Escrow, shall survive the Close of Escrow and delivery of the Grant Deed to Buyer; provided, however, that all representations, warranties and obligations by a party shall terminate ~~six~~ (6) twelve (12) months after the Closing Date, except for any representation, warranty or obligation which a party claims to have been breached by the other party, as long as: (a) a party has notified the other party in writing of a claim of breach (identifying such breach in reasonable detail) within such ~~six~~ (6) twelve (12) month period, and (b) a party files a lawsuit for breach of such representation, warranty or obligation within ~~six~~ (6) twelve (12) months after the expiration of such ~~six~~ (6) twelve (12) month period.

ARTICLE 8

BROKER'S COMMISSIONS

8.1 Real Estate Commissions. Subject to and upon Close of Escrow, Seller shall pay a commission upon the Close of Escrow to _____ ("Broker") pursuant to a separate written agreement between Seller and Broker. Each party represents and warrants to the other party that no brokers or finders, other than Broker have been employed or are entitled to a commission or compensation in connection with this transaction as a result of the action or agreement of the indemnifying party. Each party agrees to indemnify, protect, hold harmless and defend the other party (and its partners and affiliates and their respective officers, directors, shareholders, employees, agents, successors and assigns) from and against any obligation or liability to pay any such commission or compensation arising from the act or agreement of the indemnifying party.

ARTICLE 9

SELLER'S COVENANTS

9.1 Covenants. By the execution of this document, Seller acknowledges that, (i) Seller shall maintain the Property in the ordinary course until the Closing Date consistent with past practices, (ii) Seller will not enter into or modify any Leases, Contract or other agreement relating to the Property after the Contingency Date without the approval of Buyer, which shall not be unreasonably withheld, and (iii) Seller will continue to insure the Property in the manner and for the amounts presently insured.

ARTICLE 10

PRORATIONS

10.1 Prorations. The following items shall be prorated, as applicable, on a per diem basis up to and through midnight of the day immediately preceding the Closing Date; provided, however, the foregoing shall not apply to items of the type described in subsections (a) through (c) below if and to the extent that the same are payable by a tenant under a Lease, in which case (except to the extent included in rents prorated pursuant to (d) below, no payment or proration under this Agreement shall be made.

(a) Property Taxes. All real property taxes and assessments for the current tax year which are due and payable on or before the Closing Date, with such real property taxes, together with non-delinquent taxes, for the current tax year being prorated as of the Closing Date (on the basis of the portion of the current tax year which falls after the Closing Date, and based upon the most recent assessment and levy). Any adjustments to such taxes for the current tax year (with the exception of any readjustment as a result of the sale contemplated hereby) shall be adjusted between Seller and Buyer promptly upon receipt of the actual bills for such taxes. Notwithstanding the foregoing provisions of this subsection (a), if and to the extent that any real property taxes or portion thereof are payable by a tenant under a Lease, the same shall be included in rents and prorated pursuant to subsection (e) below.

(b) Utility Charges and Other Expenses. Water, sewer, and other utility charges and similar expenses paid by Seller and allocable to the period from and after the Closing Date shall be credited to Seller, and accrued water, sewer, and other utility charges and similar Property expenses unpaid by Seller for the period prior to the Closing Date shall be credited to Buyer; provided, however, if and to the extent that the same are payable by a tenant under a Lease, charges and expenses of the type described in this subsection (b) shall be included in rents and prorated pursuant to subsection (d) below. If actual meter readings are not obtainable, then Escrow Agent shall prorate such charges using the per diem rate and average meter units used as calculated from the latest available billings or other operating history of the Improvements provided by Seller. After the Closing, outside of Escrow, the parties shall make any readjustments necessary based upon a final billing obtained by Buyer or actual subsequent readings of utility meters respecting that billing period in which the Closing occurred.

(c) Service Contracts. Prepaid charges in connection with any Contracts, attributable to any period from and after the Closing Date shall be credited to Seller. Accrued and unpaid charges payable for the period up to the Closing Date and unpaid as of the Closing in connection with such Contracts shall be credited to Buyer. Notwithstanding the foregoing provisions of this subsection (c), if and to the extent that charges in connection with Contracts are payable by a tenant under a Lease, the same shall be included in rents and prorated pursuant to subsection (d) below.

(d) Rents. All collected rents payable by tenants shall be prorated through Escrow as of midnight of the day immediately preceding the Closing Date based on a ~~R~~Rent ~~R~~Roll provided and certified by Seller. Subject to the provisions of this subsection (d), rents earned and attributable to the period beginning on the Closing Date and continuing thereafter will belong and be credited or paid to Buyer, and Buyer shall not be obligated to make any payment or give any credit to Seller for any rents which are still unpaid as of the Closing Date. Seller shall deliver to Buyer all rents received by Seller from tenants after the Closing Date attributable to the period from and after the Closing Date which are unpaid as of the Closing Date and which are not prorated through Escrow. Similarly, Buyer shall deliver to Seller all rents, if any, allocable to the period prior to the Closing Date that are received by Buyer from tenants that are unpaid as of the Closing Date and which are not prorated through Escrow. Buyer shall use reasonable efforts to collect rents from tenants which are delinquent as of the Closing Date for a period of at least sixty (60) days after the Closing Date, including serving such tenant with any notice that may be required to be given by law as a condition precedent to or in connection with an action against any subtenant for breach of lease or for possession of the premises. Further, if a tenant is delinquent in the payment of rent owed to Seller as of the Closing Date, Buyer will apply the first rents received by Buyer after the Closing Date to amounts of rent then due and payable and attributable to the period from and after the Closing Date and will pay any balance (net of all costs of collection) to Seller on account of amounts of rent in arrears as of the Closing Date. Seller reserve the right to collect and retain any unpaid rents allocable to any period prior to the Closing Date after the sixty (60) day period commencing on the

Closing Date had elapsed; provided, however, Seller shall not be entitled to file any unlawful detainer or similar action against such diligent tenants.

(e) Lease Operating Cost Pass-Throughs. All operating cost pass-throughs for taxes, utilities, or other current operating costs paid by tenants under the Leases shall be estimated to the extent reasonably practicable based upon Seller's records and shall, in accordance with such estimations, be prorated through Escrow between Buyer and Seller as of the Closing Date. The foregoing provisions of this Section 10.1(e) shall survive the Closing. The provisions of subsection (d) above with respect to delinquent rents shall apply with equal force and effect to collection of operating cost pass-throughs which are delinquent as of the Closing Date.

(f) Security Deposits. Buyer will be credited and Seller will be charged with the amount of all security deposits received under the Leases in effect as of the Closing Date.

If any of the prorations described in this Section 10.1. cannot be calculated accurately on the Closing Date, then the same shall be calculated as soon as reasonably possible thereafter but in no event later than 180 days after the Closing Date, and either party owing the other party a sum of money based on such subsequent prorations shall promptly pay said sum to the other party.

10.2 Method. All prorations shall be made on the basis of a 30-day month and a 360-day year, unless the parties otherwise agree in writing.

ARTICLE 11

COSTS & FEES

11.1 Costs. Seller will pay (i) Documentary Transfer Tax, in the amount Escrow Agent determines to be required by law; (ii) the ALTA Standard Owners Title Policy premium; and (iii) one-half (1/2) of Escrow Agent's fee. Buyer will pay (i) one-half of (1/2) Escrow Agent's fee; (ii) usual Buyer's document-drafting charges; (iii) the policy premium increase for an ALTA Extended Policy and any endorsements requested by Buyer and (iv) all recording charges.

ARTICLE 12

RISK OF LOSS

12.1 Loss Threshold. If the Real Property is damaged by fire or other casualty prior to the Closing Date, and is fully insured (except for any deductible as described below) under one or more fire or casualty insurance policies maintained by Seller, and if repair of the Property would cost less than \$ ("Loss Threshold"), as determined by Seller in good faith, Buyer may not terminate this Agreement. However, Seller may elect to either (i) prior to the Closing, repair and restore the Real Property to the condition immediately preceding the fire or casualty, or (ii) proceed to close this transaction without reduction in the Purchase Price, but assign and transfer to Buyer on the Closing Date all of Seller's right, title, and interest to the insurance

proceeds paid or payable to Seller under the policy covering the damage and pay to Buyer the amount of Seller's deductible under the insurance policy.

12.2 Buyer's Rights. However, if the Real Property is damaged by fire or other casualty prior to the Closing Date, and is insured under one or more fire or casualty insurance policies maintained by Seller and if the repair of the damage would cost in excess of the Loss Threshold, as determined by Seller in good faith, or such losses are not so insured, Buyer may either (i) terminate this Agreement and the Deposit shall be returned to Buyer, or (ii) proceed to close this transaction, without reduction in the Purchase Price, and have Seller assign and transfer to Buyer on the Closing Date all of Seller's right, title, and interest to any insurance proceeds paid or payable to Seller under the policy covering the damage and pay to Buyer the amount of Seller's deductible under the insurance policy.

12.3 Repair Costs. Immediately after Seller obtains notice of any fire or casualty, Seller shall notify Buyer in writing, including Seller's good faith determination of the repair cost. If the repair cost as determined by Seller exceeds the Loss Threshold, Buyer shall notify Seller within ten (10) business days of Buyer's receipt of Seller's notice whether Buyer elects to terminate this Agreement in accordance with Section 12.2 above. Failure by Buyer to respond within such ten (10) business day period shall be deemed to be an election by Buyer to terminate this Agreement in accordance with said Section 12.2 above.

ARTICLE 13 **CONDEMNATION**

13.1 Condemnation. If between the Effective Date and the Closing Date, any condemnation or eminent domain proceedings are commenced or threatened that might result in the taking of any part of the Real Property—, Buyer may either:

- (a) terminate this Agreement by written notice to Seller; or
- (b) proceed with the Closing and have Seller assign to Buyer at the Closing all of Seller's right, title, and interest to any award made for the condemnation or eminent domain action.

13.2 Notice. Immediately after Seller obtains notice of the commencement of or the threatened commencement of eminent domain or condemnation proceedings, Seller shall notify Buyer in writing. Buyer shall then notify Seller, within ten (10) days of Buyer's receipt of Seller's notice, whether Buyer elects to terminate this Agreement in accordance with Section 13.1(a) above. Failure by Buyer to respond within such ten (10) day period shall be deemed to be an election by Buyer to proceed with the Closing in accordance with such Section 13.1(b) above.

ARTICLE 14
LIQUIDATED DAMAGES

SELLER AND BUYER EXPRESSLY ACKNOWLEDGE AND AGREE THAT IF AFTER THE CONTINGENCY DATE BUYER FAILS TO PURCHASE THE PROPERTY IN ACCORDANCE WITH THIS AGREEMENT IN DEFAULT OF ITS OBLIGATIONS UNDER THIS AGREEMENT, AND SELLER HAS PERFORMED ALL OF THE OBLIGATIONS REQUIRED OF SELLER UNDER THIS AGREEMENT, AND IS NOT IN DEFAULT UNDER THIS AGREEMENT, SELLER SHALL BE MATERIALLY DAMAGED. SELLER AND BUYER AGREE THAT IT WOULD BE IMPRACTICABLE AND EXTREMELY DIFFICULT AT THIS TIME TO ESTIMATE THE AMOUNT OF THE DAMAGES. SELLER AND BUYER FURTHER AGREE, AFTER NEGOTIATIONS, THAT THE AMOUNT OF THE DEPOSIT CONSTITUTES THEIR BEST ESTIMATE, BASED UPON ALL RELEVANT FACTS, OF THE AMOUNT OF SELLER'S DAMAGE IN THE EVENT OF SUCH DEFAULT BY BUYER AFTER THE CONTINGENCY DATE. ACCORDINGLY, SELLER AND BUYER AGREE THAT IN THE EVENT OF SUCH DEFAULT BY BUYER, THE SUM OF THE DEPOSIT SHALL CONSTITUTE LIQUIDATED DAMAGES, AND IN THE EVENT OF SUCH DEFAULT, THE DEPOSIT SHALL BE RELEASED TO SELLER FROM ESCROW. THE LIQUIDATED DAMAGES SHALL CONSTITUTE SELLER'S SOLE AND EXCLUSIVE REMEDY FOR SUCH DEFAULT BY BUYER.

BY INITIALING IN THE SPACE PROVIDED BELOW, SELLER AND BUYER EXPRESSLY ACKNOWLEDGE THAT THEY HAVE READ, UNDERSTOOD, AND AGREED TO THE PROVISION ABOVE, THAT THEY HAVE BEEN ADVISED BY LEGAL COUNSEL OF THE EFFECT OF THEIR CHOICE ABOVE, AND THAT THEY HAVE AGREED THAT THE TERMS OF THE PREVIOUS PROVISION ARE EQUITABLE AND FAIR.

BUYER: _____

SELLER: _____

ARTICLE 15
NOTICES

15.1 Notice. All notices under this Agreement shall be in writing and sent by (a) certified or registered mail, return receipt requested, in which case notice shall be deemed delivered three (3) business days after deposit, postage prepaid in the United States Mail, (b) by a nationally recognized overnight courier such as Airborne Express, or Federal Express, in which case notice shall be deemed delivered one (1) business day after deposit with that courier, or (c) by personal delivery, in which case notice shall be deemed delivered upon such date of delivery, or (d) by fax in which case notice shall be deemed delivered on the date of such transmission if received by the recipient's fax machine on or prior to 5:00 p.m., local time of the recipient; or if the transmission is received by the recipient's fax machine after such time, it shall be deemed to have been delivered on the next business day (a contemporaneous fax transmission receipt, or fax transmission log, from the sending party's fax machine which states the date and time of a successful transmission to the fax machine of the recipient will constitute prima

facie evidence of the date and time such transmission was received by the fax machine of the recipient for purposes of this Agreement), as follows. Notice via electronic mail transmission will have been deemed to have been duly given on the date of transmission to the email addresses below, if followed by service of notice via one of the above methods.

Seller's Address for Notice:

Fax: _____

E-mail: _____

With Copies To:

Fax: _____

E-mail: _____

Buyer's Address for Notice:

With Copies To:

Escrow Agent Address for Notice:

Fax: _____

E-mail: _____

Fax: _____

E-mail: _____

The above addresses, emails and facsimile numbers may be changed by written notice to the other party; provided that no notice of a change of address, email or facsimile number shall be effective until actual receipt of such notice.

ARTICLE 16 **ASSIGNMENT**

16.1 Assignment.

16.1.1 By Seller. Seller shall have the right to assign its rights and obligations under this Agreement (along with a conveyance of the Property to the same assignee as part of the assignment of its rights under this Agreement) without the prior written consent of Buyer. To the extent Seller assigns its obligations hereunder, (i) the assignee shall assume Seller's warranties, representations and obligations under this Agreement and under any additional

escrow instructions, in writing and such assignee is bound by all approvals previously given by Seller, if any and (ii) such assignment shall not be binding on Buyer unless and until written notice of such assignment and a copy of the assumption agreement described above have been delivered to Buyer and Escrow Agent.

16.1.2 By Buyer.

(a) Buyer's rights and obligations hereunder shall be assignable only with the prior written consent of Seller, which consent may be withheld at Seller's sole discretion; however, Buyer may assign its interests hereunder to a related entity or a newly formed single purpose entity formed by Buyer for the purpose of taking title to the Property if Buyer is the majority owner of such assignee (in such event, Seller's prior consent shall not be required, but concurrent notice of such assignment shall be given to Seller and to Escrow Agent).

(b) The following conditions shall apply to any permitted assignment: (i) for the benefit of Seller, the assignee shall specifically assume the obligations, representations and warranties of Buyer under this Agreement and under any additional escrow instructions executed pursuant hereto and shall be bound by all approvals previously given by Buyer hereunder; and (ii) such assignment shall not be binding on Seller unless and until written notice of such assignment and a copy of the assumption agreement described above have been delivered by Buyer to Seller and Escrow Agent.

ARTICLE 17
THE CLOSING

17.1 Closing. Escrow Agent shall close the Escrow on the Closing Date by (i) filing for record the Grant Deed and such other documents as may be necessary to procure the Title Policy (as hereinafter defined), and (ii) delivering funds and documents as set forth in this Agreement IF AND ONLY IF each of the following conditions has been satisfied:

17.1.1 Delivery of Funds. All funds and instruments described in Section 3.5 and Section 3.6 have been delivered to Escrow Agent.

17.1.2 Procurement of Title Policy. Escrow Agent has procured the Title Company's ALTA Standard Owner's Policy (the "ALTA Standard Title Policy"), with liability in the amount of the Purchase Price, insuring that the fee title to the Property vests in Buyer subject only to the Permitted Exceptions.

17.1.3 Conditions. The conditions to closing set forth in Section 4.1 have been satisfied or waived.

17.1.4 Qualification. If Buyer is not an individual, Buyer shall be a California entity or registered with the California Secretary of State as a foreign entity and be duly qualified to do business in the State of California.

17.2 Title Insurance. Buyer may, at Buyer's option, direct the Escrow Agent to obtain ~~an~~ a 2006 ALTA Extended Title Policy ("ALTA Extended Title Policy") or to issue additional title insurance endorsements, if Buyer pays for the extra cost of such additional endorsements or such ALTA Extended Title Policy over and above what would have been the cost of the ALTA Standard Policy described above, provided that obtaining an ALTA Extended Title Policy or endorsements is feasible and will not delay the Close of Escrow. Notwithstanding Buyer's exercise of this option to obtain an ALTA Extended Title Policy or additional title insurance endorsements, the Title Company's refusal to issue an ALTA Extended Title Policy with liability in the amount of the Purchase Price or the requirement that additional exceptions to such ALTA Extended Title Policy coverage should be shown shall not be a condition to Closing or, after the Closing Date, constitute grounds for Buyer's refusing to purchase the Property or any claim for damages or reduction in the Purchase Price. Buyer shall be solely responsible, at its sole cost and expense, for timely obtaining an ALTA survey prior to Close of Escrow.

17.3 Termination. If Escrow Agent cannot close the Escrow on or before the Closing Date, it will nevertheless close the same when all conditions (except as to time) have been met, unless after the Closing Date and prior to the Close of Escrow, Escrow Agent receives a written demand for termination from a party not then in default hereunder. Said written demand shall also concurrently be delivered to the other party hereto. The making of such demand shall be optional, not mandatory; no delay in the making of such demand shall affect the rights hereunder of the party making same. In the event such demand is made upon Escrow Agent, Escrow Agent shall return to each party the funds and/or documents theretofore delivered to it by such party (except for the Deposit after the Closing Date if Buyer is in default hereunder and Seller is not in default hereunder) unless Escrow Agent decides the protection of its interests requires otherwise. Such return of funds and/or documents shall not affect the right of either party to enforce any remedy that may otherwise be available against the other party for breach of this Agreement. If Escrow is terminated as provided herein, Buyer shall promptly, upon such termination, deliver to Seller copies of all of the documents previously delivered by Seller to Buyer unless termination is due to the fault of Seller.

ARTICLE 18

GENERAL PROVISIONS

18.1 Governing Law. This Agreement shall be interpreted and construed in accordance with California law.

18.2 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

18.3 Captions and Pronouns. The captions in this Agreement are inserted for convenience of reference and in no way define, describe, or limit the scope or intent of this Agreement or any of the provisions of this Agreement. Variations in pronouns have no bearing on the substantive effect of any provision of this Agreement. The masculine, feminine, or neuter, singular or plural, may be used interchangeably as the context expressly, or by necessary implication, may require.

18.4 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties and their respective legal representatives, successors, heirs, and permitted assigns.

18.5 Modifications; Waiver. No waiver, modification, amendment, discharge, or change of this Agreement shall be valid unless it is in writing and signed by the party against which the enforcement of the modification, waiver, amendment, discharge, or change is sought.

18.6 Entire Agreement. This Agreement contains the entire agreement between the parties relating to the transactions contemplated by this Agreement and all prior or contemporaneous agreements, understandings, representations, or statements, oral or written, are superseded.

18.7 Partial Invalidity. Any provision of this Agreement which is unenforceable, invalid, or the inclusion of which would adversely affect the validity, legality, or enforcement of this Agreement shall have no effect, but all the remaining provisions of this Agreement shall remain in full effect if the rights and obligations of the parties are not materially altered.

18.8 Survival. Except as otherwise expressly provided in this Agreement, all representations, warranties, covenants, agreements, indemnities and other obligations of Seller and Buyer in this Agreement shall survive the Closing of this transaction.

18.9 No Third-Party Rights. Nothing in this Agreement, express or implied, is intended to confer upon any person, other than the parties to this Agreement and their respective successors and assigns, any rights or remedies.

18.10 Time Of Essence. Time is of the essence in this Agreement.

18.11 Attorneys' Fees. If any legal action or any other proceeding, including arbitration or an action for declaratory relief, is brought to enforce this Agreement or because of a dispute, breach, default, or misrepresentation in connection with this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and other costs incurred in that action or proceeding, in addition to any other relief to which that party may be entitled. Prevailing party shall include without limitation (a) a party who dismisses an action in exchange for sums allegedly due; (b) the party that receives performance from the other party alleged to have breached a covenant or that receives a desired remedy, where these things are substantially equal to the relief sought in an action; or (c) the party determined to be the prevailing party by a court of law.

18.12 Definitions. Definitions of words and phrases used in this Agreement:

18.12.1 Cash. "Cash" means (i) United States currency, or (ii) cashiers check(s), currently dated, payable to Escrow Agent and honored and paid upon presentation for payment on or prior to the Closing Date, or (iii) an amount credited by wire transfer into an Escrow Agent's bank account, or (iv) if Escrow Agent, in its sole discretion so requires, check(s) in the form required by clause (ii) drawn on such bank(s) as Escrow Agent may require.

18.12.2 Party. "Party" or "parties" means Buyer and/or Seller, as the context indicates.

18.12.3 Escrow. "The escrow" means the escrow created hereby.

18.12.4 Close of Escrow. "The Close of Escrow" means the time Seller's Grant Deed is filed for record.

18.12.5 Opening of Escrow. "The opening of the escrow" means the date Escrow Agent signs the "Consent of Escrow Agent" attached hereto.

18.12.6 City. "City" means the City of _____.

18.12.7 Hazardous Materials. "Hazardous Materials" means:

(a) Those substances included within the definitions of "hazardous substance," "hazardous waste," "hazardous material," "toxic substance," "solid waste," or "pollutant or contaminant" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 [42 USCS §§9601 *et seq.*]; the Resource Conservation and Recovery Act [42 USCS §§6901 *et seq.*]; the Clean Water Act [33 USCS §§ 2601 *et seq.*]; the Toxic Substances Control Act [15 USCS §§9601 *et seq.*]; the Hazardous Materials Transportation Act [49 USCS §§1801 *et seq.*] or under any other Environmental Laws;

(b) Those substances listed in the United States Department of Transportation Table [49 CFR 172.101], or by the Environmental Protection Agency, or any successor agency, as hazardous substances [40 CFR Part 302];

(c) Other substances, materials, and wastes that are or become regulated or classified as hazardous or toxic under federal, state, or local laws or regulations; and

(d) Any material, waste, or substance that is:

- i. a petroleum or refined petroleum product,
- ii. asbestos,

- iii. polychlorinated biphenyl,
- iv. designated as a hazardous substance pursuant to 33 USCS §1321 or listed pursuant to 33 USCS §1317,
- v. a flammable explosive, or
- vi. a radioactive material.

18.12.8 Laws. “Laws” means all governmental laws, statutes, ordinances, resolutions, rules, regulations, restrictions and requirements applicable to the Property, whether now or hereafter in effect, and as amended or supplemented from time to time.

18.12.9 Environmental Laws. “Environmental Laws” means all laws applicable to the physical condition of the Property or the presence of any substance thereon, including without limitation the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Sections 9601 *et seq.*), the Resource Conservation and Recovery Act (42 U.S.C. Section 6901 *et seq.*), the Clean Water Act (33 U.S.C. Sections 466 *et seq.*), the Safe Drinking Water Act (14 U.S.C. Sections 300f *et seq.*), the Hazardous Materials Transportation Act (49 U.S.C. Sections 5101 *et seq.*), the Toxic Substances control Act (15 U.S.C. Sections 2601 *et seq.*), the California Hazardous Waste Control Act (California Health and Safety Code Section 25100 *et seq.*), the California Hazardous Substances Account Act (California Health and Safety Code Sections 25300 *et seq.*), the Safe Drinking Water and Toxic Enforcement Act (“Proposition 65”)(California Health and Safety Code Sections 25249.5 *et seq.*), and the Porter-Cologne Water Quality Control Act (California Health and Safety Code Sections 13000 *et seq.*), and any similar federal, state or local laws, all regulations and publications implementing or promulgated pursuant to the foregoing, as any of the foregoing may be amended or supplemented from time to time.

18.13 Possession. Possession of the Property is to be given to Buyer on the Closing Date.

18.14 Facsimile. A facsimile, telecopy, PDF or other reproduction of this Agreement may be executed by one or more parties hereto, and an executed copy of this Agreement may be delivered by one or more parties hereto by facsimile or similar electronic transmission device pursuant to which the signature of or on behalf of such party can be seen, and such execution and delivery shall be considered valid, binding and effective for all purposes. At the request of any party hereto, all parties hereto agree to execute an original of this Agreement as well as any facsimile, telecopy or other reproduction hereof.

The parties have executed this Agreement as of the date first above written.

SELLER:

By: _____
Its: _____

BUYER:

By: _____
Its: _____

EXHIBIT A
LEGAL DESCRIPTION

EXHIBIT B

Contracts

EXHIBIT C

Leases

EXHIBIT D

ASSIGNMENT OF INTANGIBLE PROPERTY

This Assignment of Intangible Property ("Assignment") is made as of this _____ day of _____, 20____ between _____ ("Assignor"), and _____ ("Assignee") with respect to the following facts:

RECITALS

A. Pursuant to a Purchase and Sale Agreement and Escrow Instructions dated _____, 2013 between Assignor as Seller, and Assignee as Buyer ("Purchase Agreement"), Assignor has conveyed, or is about to convey, to Assignee certain real property more particularly described on Exhibit "D-1" attached hereto ("Land") and the improvements ("Improvements ") thereon. The Land and Improvements are collectively referred to herein as the "Property".

B. Assignor is the owner of certain intangible property relating to the Real Property including but not limited to, governmental licenses; plans and specifications for the Improvements; all licenses, permits, warranties, franchises, occupancy and use certificates, authorizations, consents, variances, waivers, approvals and the like for the Real Property; and all warranties or guarantees from any contractors, subcontractors, suppliers or materialmen in connection with the Property (collectively, "Intangible Property").

C. Assignor desires to assign, transfer, sell, convey, grant and deliver all of its interest in and to said Intangible Property to Assignee in connection with the consummation of the purchase and sale of the Property.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee hereby agree as follows:

1. Effective Date. The "Effective Date" is defined to be the date of recordation of the grant deed conveying title to the Property from Assignor to Assignee in the Official Records of the San Diego County Recorder's Office.

2. Assignment. Effective on the Effective Date, Assignor hereby assigns, sells, transfers, grants, delivers and conveys to Assignee all of Assignors right, title and interest in, to and under the Intangible Property. Such assignment is made without representation or warranty of any kind except as expressly set forth in the Purchase Agreement.

3. Acceptance. Upon the Effective Date, Assignee hereby agrees to and does accept all of such right, title and interest to the Intangible Property.

4. Successors and Assigns. This Assignment shall be binding upon and inure to the benefit of the parties hereto and of all officers, directors, shareholders, successors and assigns.

5. Governing Law. This Assignment shall be governed by, and construed and enforced in accordance with, the laws of the State of California.

6. Severability. If any term or provision of this Assignment is, to any extent, held to be invalid or unenforceable, the remainder of this Assignment will not be affected, and each term or provision of this Assignment will be valid and be enforced to the fullest extent permitted by law.

7. Modification. No modification, waiver, amendment, discharge or change of this Assignment shall be valid unless the same is in writing and signed by the party against which the enforcement of such modification, waiver, amendment, discharge or change is or may be sought.

8. Attorneys' Fees. Should any dispute occur between Assignor and Assignee with respect to this Assignment or any document executed in connection herewith, which results in litigation, the losing party or parties shall pay the prevailing party or parties their reasonable attorneys' fees and costs at trial and upon any appeal.

9. Counterparts. This Assignment may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same Assignment.

10. Entire Agreement. This Assignment contains the entire understanding between the parties hereto and supersedes any prior or contemporaneous understanding or agreements between them respecting the subject matter set forth herein.

11. Time of the Essence. Time is of the essence with respect to all provisions of this Assignment.

12. Further Assurances. At any time or from time to time upon the request of a party, the other party shall execute such additional documents and instruments, and shall do such additional acts and things as the requesting party may reasonable request in order to fully effectuate the purposes of this Assignment.

IN WITNESS WHEREOF, all parties have executed this Assignment, effective as of the date written above.

ASSIGNOR:

By: _____
Its: _____

ASSIGNEE:

By: _____
Its: _____

Exhibit "D-1"
Legal Description

EXHIBIT E

ASSIGNMENT AND ASSUMPTION OF LEASES

This ASSIGNMENT AND ASSUMPTION OF LEASES (this "Assignment") is dated as of the ____ day of _____, 20____ by and between _____ ("Assignor"), and _____ ("Assignee").

WITNESSETH:

A. Assignor and Assignee are parties to that certain Purchase and Sale Agreement and Escrow Instructions dated of even date herewith ("Purchase Agreement") with respect to the Real Property (as defined in the Purchase Agreement) described on Exhibit E-1 hereto

B. Pursuant to certain lease agreements (the "Leases") by and between Assignor, as landlord, and various tenants (the "Tenants"), as more particularly set forth on Exhibit E-2 hereto, Assignor leases offices and retail space in the Buildings, all as more particularly set forth in the respective Leases.

C. Pursuant to the Purchase Agreement, the Assignor has agreed to assign the Leases and its rights thereto to the Assignee, and the Assignee has agreed to accept and assume such assignment, and all of Assignor's rights and obligations under the Leases.

NOW, THEREFORE, in consideration of the terms and provisions set forth herein and in the Purchase Agreement, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, IT IS AGREED:

1. Assignment; Leases. Effective as of the date hereof, Assignor hereby sells, grants, transfers and assigns to the Assignee, its successors and assigns, Assignor's right, title and interest in and to the Leases, together with all obligations, rights, powers, privileges, options and other benefits of Assignor thereunder. Such assignment is made without representation or warranty of any kind except as expressly set forth in the Purchase Agreement and any Landlord Estoppel.

2. Acceptance; Assumption. Effective as of the date hereof, the Assignee hereby accepts the foregoing assignment and hereby assumes and agrees to perform and be bound by all of the obligations of Assignor, as landlord, arising under or relating to the Leases and covenants to duly, properly and timely perform the same.

3. Indemnity. Assignee shall indemnify, protect and keep harmless Assignor from and against, and assume liability for payments of all liabilities, obligations, losses, damages, penalties, claims, actions, suits, judgments, settlements, out-of-pocket costs, expenses and disbursements (collectively, "Losses"), that may be imposed on or incurred by Assignor as a consequence of or in connection with Assignee's failure to properly and fully perform its obligations under any Lease after the date hereof or

Assignee's negligence or willful misconduct in respect of any Tenant or Lease after the date hereof. Assignor hereby agrees to indemnify, defend and hold harmless Assignee from and against any and all Losses arising out of or in any way related to the lessor's obligations under the Leases with respect to the period prior to the date hereof or which arise out of or are in any way related to the lessor's obligations under said Leases after the date hereof on account of any fact or circumstance occurring or existing prior to the date hereof. The term "Losses" as used herein is not limited to matters asserted by third parties against the Assignor but includes Losses incurred or sustained by the Assignor in the absence of third party claims. The foregoing indemnity shall survive the Assignee's acquisition of the Property and its execution and delivery of this Instrument.

4. Purchase and Sale Agreement. This Assignment and Assumption of Leases is delivered pursuant to the terms of the Purchase Agreement, the terms of which are incorporated herein by reference.

5. Successors and Assigns. The terms and conditions of this Assignment shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns.

6. Governing Law. This Assignment shall be governed by and construed in accordance with the laws of the state of California.

7. Conflict with Purchase Agreement. This Assignment is intended to implement the terms and conditions of the Purchase Agreement. If any of the provisions hereof is in direct conflict with the provisions of the Purchase Agreement, the Purchase Agreement shall control.

8. Counterparts. This Assignment may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of which shall together constitute one and the same instrument. This Assignment shall become binding when one or more counterparts hereof, individually or taken together, shall bear the signatures of all of the parties reflected hereon as the signatories.

9. Attorney's Fees. Should legal action be necessary to enforce or interpret this Agreement, the prevailing party shall be entitled to recover reasonable attorney's fees and costs.

10. Severability. Should any provision or provisions of this Agreement be adjudicated to be invalid or otherwise without force and effect, all other provisions shall remain valid and enforceable.

NO FURTHER TEXT ON THIS PAGE]

ASSIGNOR:

By: _____
Its: _____

ASSIGNEE:

By: _____
Its: _____

Exhibit "E-1"
Legal Description

Exhibit "E-2"
Leases

Leases

EXHIBIT F

ASSIGNMENT AND ASSUMPTION OF CONTRACTS

THIS ASSIGNMENT AND ASSUMPTION OF CONTRACTS ("Assignment") is made as of the ___ day of _____, 20____, by _____ ("Assignor"), and _____ ("Assignee").

RECITALS

A. Assignor as "Seller" and Assignee, as "Buyer" have entered into that certain Purchase and Sale Agreement (the "Purchase Agreement") dated as of _____, 2013 pursuant to which Assignor is selling to Assignee and Assignee is purchasing from Assignor certain Property (as defined in the Purchase Agreement), as more particularly described in the Purchase Agreement.

B. Pursuant to the terms of the Purchase Agreement, and to the extent assignable, Assignor desires to assign to Assignee, and Assignee desires to accept such assignment from Assignor of, [any] right, title and interest of Assignor in and to those contracts (the "Contracts") identified on Exhibit F-1, attached hereto and incorporated by reference herein.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee hereby agree as follows:

1. Assignment and Assumption. Effective as of the date hereof, Assignor hereby sells, grants, transfers and assigns to the Assignee, its successors and assigns, Assignor's right, title and interest in and to the Contracts, together with all obligations, rights, powers, privileges, options and other benefits of Assignor thereunder. Such assignment is made without representation or warranty of any kind except as expressly set forth in the Purchase Agreement.

2. Acceptance; Assumption. Effective as of the date hereof, the Assignee hereby accepts the foregoing assignment and hereby assumes and agrees to properly and timely perform and to be bound by all of the terms, covenants, conditions and obligations of Assignor under the Contracts which arise on or after the date hereof.

3. Indemnity. Assignee shall indemnify, protect and keep harmless Assignor from and against, and assume liability for payments of, all liabilities, obligations, losses, damages, penalties, claims, actions, suits, judgments, settlements, out-of-pocket costs, expenses and disbursements (collectively, "Losses"), that may be imposed on or incurred by the Assignor as a consequence of or in connection with Assignor's failure to properly and fully perform its obligations under any Lease-Contracts after the date hereof or Assignee's negligence or willful misconduct in respect of any Tenant-or LeaseContracts. ~~The~~ After the date hereof the term "Losses" as used herein is not

limited to matters asserted by third parties against the Assignor but includes Losses incurred or sustained by the Assignor in the absence of third party claims. Assignor hereby agrees to indemnify, defend and hold harmless Assignee from and against any and all Losses arising out of or in any way related to the lessor's obligations under the Contracts with respect to the period prior to the date hereof or which arise out of or are in any way related to the Assignor's obligations under said Contracts after the date hereof on account of any fact or circumstance occurring or existing prior to the date hereof. The foregoing indemnity shall survive the Assignee's acquisition of the Property and its execution and delivery of this Instrument.

4. Successors and Assigns. This Assignment shall be binding upon and inure to the benefit of the respective successors and assigns of Assignor and Assignee.

5. Governing Law. This Assignment shall be governed by and construed in accordance with the laws of the state of California.

6. Conflict with Purchase Agreement. This Assignment is intended to implement the terms and conditions of the Purchase Agreement. If any of the provisions hereof is in direct conflict with the provisions of the Purchase Agreement, the Purchase Agreement shall control.

7. Counterparts. This Assignment may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of which shall together constitute one and the same instrument. This Assignment shall become binding when one or more counterparts hereof, individually or taken together, shall bear the signatures of all of the parties reflected hereon as the signatories.

8. Attorney's Fees. Should legal action be necessary to enforce or interpret this Assignment, the prevailing party shall be entitled to recover reasonable attorney's fees and costs.

9. Severability. Should any provision or provisions of this Assignment be adjudicated to be invalid or otherwise without force and effect, all other provisions shall remain valid and enforceable.

[NO FURTHER TEXT ON THIS PAGE]

IN WITNESS WHEREOF, the parties have executed this Assignment as of the date and year first set forth above.

ASSIGNOR:

By: _____
Its: _____

ASSIGNEE:

By: _____
Its: _____

Exhibit "F-1"
Contracts

EXHIBIT G

TENANT ESTOPPEL CERTIFICATE

To:

Re: Lease dated _____, between _____ ("Landlord"), and The _____ ("Tenant"), as amended by _____ (collectively, the "Lease") for certain premises known as Suite _____ located at _____ (the "Property").

To _____:

The undersigned Tenant under the Lease acknowledges that Landlord states that it has entered into a certain Purchase and Sale Agreement and Escrow Instructions dated _____, 2013 with _____ ("Buyer") for the Property. The undersigned certifies as follows:

1. The Lease has not been amended, modified or supplemented _____.
2. The premises leased to Tenant consists of _____ of Rentable Square Feet at _____ ("Premises").
3. The Lease term is _____. The lease term commenced on _____ and will expire on _____ unless sooner terminated or extended in accordance with the terms of the Lease. The Lease is presently in full force and effect.
4. Tenant has _____ option to renew the term of the Lease for a period of _____ years, on the terms, covenants, conditions and provisions set forth in the Lease.
5. The monthly Base Rent payable under the Lease currently totals \$_____ per month.
6. Tenant's Pro Rata Share of Operating Costs due under the Lease is _____%, as it may be adjusted pursuant to the terms of the Lease.
7. Tenant has no rights or options to acquire the Premises.
8. No security deposits have been made under the Lease.
9. To the best of Tenant's knowledge, Landlord has performed all of its obligations under the Lease required to be performed as of the date hereof. Tenant has no actual knowledge of any default by Landlord under the Lease or of any present fact

or circumstance, which with the passage of time or giving of notice, would constitute a default by Landlord of the Lease.

10. Tenant has not assigned, sublet or transferred its interest in the Lease.

11. Tenant has accepted the Premises and has no claim, defense, set-off or counterclaim against the Landlord under the Lease.

12. Tenant has no right, title, or interest in the Premises, other than as indicated under the Lease.

13. The undersigned is authorized to execute this Tenant Estoppel Certificate on behalf of Tenant.

Tenant makes this Tenant Estoppel Certificate with the knowledge that it will be relied on by Buyer in connection with Buyer agreeing to purchase the Property.

Very truly yours,

By: _____

Its: _____

By: _____

Its: _____

EXHIBIT H

Project Documents

EXHIBIT I

PR

(attached)

CONSENT OF ESCROW AGENT

The undersigned Escrow Agent hereby agrees to (i) accept the foregoing Agreement and Instructions, (ii) be escrow agent under said Agreement and Instructions, and (iii) be bound by said Agreement and Instructions in the performance of its duties as escrow agent; provided, however, the undersigned shall have no obligations, liability or responsibility under (i) this Consent or otherwise, unless and until said Agreement and Instructions, fully signed by the parties, has been delivered to the undersigned, or (ii) any amendment to said Agreement and Instructions unless and until the same shall be accepted by the undersigned in writing.

Dated: _____ **TITLE INSURANCE COMPANY**

By: _____