

**ADDENDUM TO STANDARD OFFER, AGREEMENT AND ESCROW
INSTRUCTIONS FOR PURCHASE OF REAL ESTATE
(Non-Residential)**

This Addendum to that certain Commercial Property Purchase Agreement and Joint Escrow Instructions (“**Addendum**”) dated effective _____, 20__ (the “**Effective Date**”), amends, supplements and constitutes a part of that certain Standard Offer, Agreement and Escrow Instructions for Purchase of Real Estate (Non-Residential) (“**Agreement**”) dated _____, 20__, by and between _____ (“**Buyer**”) and _____ (“**Seller**”), with respect to that certain real property more particularly described in the Agreement (“**Property**”). To the extent of any conflict between the provisions of the main body of the Agreement and the provisions of this Addendum, the provisions of this Addendum shall control.

Buyer and Seller hereby acknowledge and agree as follows:

1. Sale By Trustees.

A. Exempt From Transfer Disclosure. Buyer acknowledges that this is a transfer by a fiduciary in the course of the administration of a Trust estate, and, in accordance with California Civil Code, Section 1102.2(d), is exempt from the real estate transfer disclosure requirements of Sections 1102 et. seq. of the California Civil Code.

B. Buyer’s Inspection. Buyer has the right, at Buyer's expense, to have one or more professionals inspect the property and Buyer is encouraged to conduct any and all due diligence it deems appropriate to satisfy itself regarding all aspects of the property and the transaction set forth in the Agreement. Buyer hereby agrees to indemnify, defend and forever hold Seller and its trustees, representatives and affiliates harmless from all liability, claims, losses, damages, costs, and expenses, including attorneys' fees, arising out of or resulting from the performance of any such inspection. Buyer may terminate the contract based on the results of any such inspection by providing Seller with written notice of termination as specified in the Agreement. The notice shall state the basis of the Buyer's determination, and shall be accompanied by any relevant written inspection reports. Buyer's failure to provide the notice in the manner required by the Agreement shall be deemed a waiver of the right to terminate the Agreement.

C. Seller Acting in Representative Capacity. Buyer hereby acknowledges and agrees that Seller holds the Property as co-Trustees of The _____ Trust, dated _____, _____, and that Seller neither is nor shall be personally liable in any respect whatsoever for any cause of action Buyer may have arising out of any contract or deed made as the result of the sale of the property. Buyer's rights and claims in such case being limited exclusively to such rights and claims, if any, as Buyer may have against The _____ Trust, dated _____, _____, or each Seller in his representative capacity as a co-Trustee of said Trust. The sale of the Property is subject to a Notice of Proposed Action (CA Probate Code Section 16501). The Trustees served the Notice of Proposed Action on _____, 20__. As a result, if even one Trust beneficiary objects to the sale prior to _____, 20__, then Court intervention will be necessary in order for the Trustees to proceed with the sale. If no Trust beneficiary objects prior to _____, 20__, and

the Trustees so elect, the sale may proceed without further consent of the beneficiaries and without court intervention.

2. LIQUIDATED DAMAGES. IN THE EVENT THAT BUYER BREACHES ITS OBLIGATIONS UNDER THIS AGREEMENT, THE DAMAGES THAT SELLER WILL INCUR BY REASON THEREOF ARE AND WILL BE IMPRACTICAL AND EXTREMELY DIFFICULT TO ESTABLISH. BUYER AND SELLER, IN A REASONABLE EFFORT TO ASCERTAIN WHAT SELLER'S DAMAGES WOULD BE IN THE EVENT OF SUCH A DEFAULT BY BUYER, HAVE AGREED THAT SUCH DAMAGES SHALL BE IN AN AMOUNT EQUAL TO THE AMOUNT OF THE DEPOSIT, PLUS ACCRUED INTEREST, AND THAT SUCH DEPOSIT SHALL BE DELIVERED TO SELLER UPON SUCH DEFAULT BY ESCROW HOLDER WITHOUT THE NECESSITY OF AN INSTRUCTION BY BUYER, AND RETAINED BY SELLER AS LIQUIDATED DAMAGES, WHICH DAMAGES SHALL BE SELLER'S SOLE AND EXCLUSIVE REMEDY AT LAW OR IN EQUITY IN THE EVENT OF AND FOR SUCH DEFAULT BY BUYER. SELLER AND BUYER ACKNOWLEDGE AND AGREE THAT THEY HAVE READ AND UNDERSTAND THE PROVISIONS OF THIS PARAGRAPH AND BY THEIR INITIALS AGREE TO BE BOUND BY ITS TERMS. NOTWITHSTANDING THE FOREGOING, SELLER MAY SEEK TO RECOVER FROM BUYER ANY FEES OR COSTS INCURRED IN COLLECTING THE DEPOSIT PURSUANT TO THIS PARAGRAPH.

Buyer's Initials

Seller's Initials

3. As-Is Purchase. Notwithstanding anything to the contrary set forth in the Agreement, Buyer acknowledges and agrees that Seller has made no representations or warranties regarding the Property, including, without limitation, its condition, its past use, or its suitability for Buyer's intended use, and that Buyer is purchasing the Property on an "AS-IS" basis. Seller discloses to Buyer, and Buyer hereby acknowledges, that except as set forth herein: (i) Seller makes no representations or warranties concerning the Property, its conditions, or its operations; (ii) Seller and/or prior owners of the Property may have previously made repairs to the Property with relation to the remediation of potential contaminants, which contaminants may have contained mold, mildew or other fungicidal properties; (iii) Seller and/or prior owners of the Property may have made improvements to the Property without obtaining applicable permits; (iv) there may be significant aspects of its construction which no longer comply with current municipal Building Code provisions; (v) Seller is selling the Property, and Buyer shall accept the same at the Closing of Escrow, on an AS IS, WHERE IS basis and WITH ALL FAULTS, Seller expressly disclaiming and Buyer hereby waiving all warranties, express or implied, including without limitation, any warranty of habitability, merchantability, suitability for a particular or commercial purpose or of good and workmanlike construction. All obligations, representations and warranties of Seller hereunder shall be received and understood in the context of this disclosure. Buyer is advised to undertake a complete investigation of all issues set forth in this paragraph as part of its due diligence investigation.

4. General Release. Except as expressly set forth herein, effective as of the Close of Escrow, Buyer and anyone claiming by, through or under Buyer hereby waives its right to recover from and fully and irrevocably releases Seller, its employees, officers, directors,

representatives, agents, servants, attorneys, affiliates, parent, subsidiaries, successors and assigns (“**Released Parties**”) from any and all claims that it may now have or hereafter acquire against any of the Released Parties for any costs, loss, liability, damage, expenses, demand, action or cause of action arising from or related to any matter affecting the Property, or any portion thereof.

5. Scope of Release and 1542 Waiver. This release includes claims of which Buyer is presently unaware or which Buyer does not presently suspect to exist which, if known by Buyer, would materially affect Buyer’s release to Seller. Buyer specifically waives the provision of California Civil Code Section 1542, which provides as follows:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR EXPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN TO HIM OR HER MUST HAVE MATERIALLY AFFECTED THE SETTLEMENT WITH THE DEBTOR.”

In this connection and to the extent permitted by law, Buyer hereby agrees, represents and warrants, which representation and warranty shall survive the Close of Escrow, that Buyer realizes and acknowledges that factual matters now unknown to it may have given or may hereafter give rise to causes of action, claims, demands, debts, controversies, damages, costs, losses and expenses which are presently unknown and unsuspected, and Buyer further agrees, represents and warrants, which representation and warranty shall survive the Close of Escrow, that the waivers and releases herein have been negotiated and agreed upon in light of that realization and that Buyer nevertheless hereby intends to release, discharge and acquit Seller from any such unknown causes of action, claims, demands, debts, controversies, damages, costs, losses and expenses which might in any way be included as a material portion of the consideration given to Seller by Buyer in exchange for Seller’s performance hereunder. The foregoing release shall not apply to any of the matters expressly contained in this Agreement.

Seller has given Buyer material concessions regarding this transaction in exchange for Buyer agreeing to the provisions of this Section. Seller and Buyer have each initialed this Section to further indicate their awareness and acceptance of each and every provision hereof.

Seller’s Initials

Buyer’s Initials

6. Indemnity. Buyer (“**Indemnitor**”) shall indemnify and defend Seller (“**Indemnatee**”) against all Claims (as defined below) and all costs, expenses and attorneys’ fees incurred in the defense of any of such Claims or any action or proceeding brought on any of such Claims. For purposes of this Paragraph, “**Claims**” shall mean all liabilities, costs, expenses, attorneys’ fees and claims, except to the extent caused by Indemnatee’s negligent act, willful misconduct or breach under this Agreement, arising from (a) Indemnitor’s intended use of the Property, (b) any negligence of Indemnitor or any of Indemnitor’s agents, employees, representatives, invitees, guests, licensees or contractors; or (c) any of the matters disclosed herein. If any action or proceeding is brought against Indemnatee by reason of any such Claims, Indemnitor shall defend such action or proceeding at Indemnitor’s sole cost by counsel

satisfactory to Indemnitee. The foregoing indemnity shall be a payment obligation and not merely a reimbursement obligation of Indemnitor, it being understood that Indemnitor and Indemnitee have a “contrary intention” with respect to the provisions of paragraph 2 of Section 2778 of the California Civil Code. Buyer’s obligations under this Paragraph 6 may not be assigned.

7. Successors. The terms, covenants and conditions of this Agreement shall be binding upon and shall inure to the benefit of the heirs, executors, administrators and assigns of the respective parties hereto.

8. Interpretation. Whenever the context so requires in this Agreement, all words used in the singular shall be construed to have been used in the plural (and vice versa), each gender shall be construed to include any other genders, and the word “**person**” shall be construed to include a natural person, a corporation, a firm, a partnership, a joint venture, a trust, an estate, or any other entity.

9. Information Report. Escrow Holder shall file and Buyer and Seller agree to cooperate with Escrow Holder and with each other in completing any report (“**Information Report**”) and/or other information required to be delivered to the Internal Revenue Service pursuant to Internal Revenue Code Section 6045(e) regarding the real estate sales transaction contemplated by this Agreement, including, without limitation, Internal Revenue Service Form 1099-B as such may be hereinafter modified or amended by the Internal Revenue Service, or as may be required pursuant to any regulation now or hereinafter promulgated by the Treasury Department with respect thereto. If, and only if this transaction closes, Buyer and Seller also agree that Buyer and Seller, their respective employees and attorneys, and Escrow Holder and its employees may disclose to the Internal Revenue Service, whether pursuant to such Information Report or otherwise, any information regarding this Agreement or the transaction contemplated herein as such party reasonably deems to be required to be disclosed to the Internal Revenue Service by such party pursuant to Internal Revenue Code Section 6045(e), and further agree that neither Buyer nor Seller shall seek to hold any such party liable for the disclosure to the Internal Revenue Service of any such information.

10. Confidentiality. Except as essential to the consummation of the transactions under this Agreement, (a) the parties to this Agreement shall maintain the absolute confidentiality of this Agreement and the information received in conjunction with this Agreement and (b) neither party to this Agreement shall make or allow any notices, statements, disclosures, communications or news releases concerning the existence or content of this Agreement or any transaction under this Agreement. Nothing in this paragraph, however, shall prevent either party to this Agreement from disclosing to its legal counsel, certified public accountants and advisors the existence and terms of this Agreement or any transaction under this Agreement or make any disclosures that are otherwise required as a matter of law.

11. Waiver. No waiver by Buyer or Seller of a breach of any of the terms, covenants and conditions of this Agreement by the other party shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, covenant or condition herein. No waiver of any default by Buyer or Seller shall be implied from any omission by the other

party to take any action on account of such default if such default persists or is repeated and no express waiver shall affect a default other than as specified in such waiver.

12. Survival of Seller's Representations and Warranties. Each of the representations and warranties of Seller set forth in the Agreement shall survive the Closing for a period of thirty (30) days (the "**Limitation Period**"). No claim for a breach of any representation or warranty of Seller shall be actionable or payable if the breach or inaccuracy in question results from or is based on a condition, state of facts or other matter which was known to Buyer or otherwise disclosed in materials delivered or otherwise made available to Buyer prior to the Closing. In no event shall Seller be liable for consequential or punitive damages.

13. Brokers. Section 18 of the Agreement (Broker's Rights) is deleted in its entirety. Seller and Buyer each represent and warrant to each other that except for _____ ("**Broker**"), whose commission shall be paid directly by Seller upon the Close of Escrow in accordance with a separate agreement between Broker and Seller, no real estate broker or finder or any other person has represented either party in connection with the transaction contemplated by this Agreement and shall each indemnify, defend, protect and hold the other harmless from and against all loss, cost, damage, or expense, including reasonable attorneys' fees, incurred by the other party as a result of a claim arising from acts of the indemnifying party, or of others acting on that party's behalf, for a commission, finder's fee, or similar compensation, made by a broker, finder, or other party who claims to have dealt with the indemnifying party. The foregoing indemnity shall survive the Closing or the earlier termination of this Agreement.

14. Miscellaneous. This Addendum 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. This Addendum shall not be effective until the execution and delivery between each of the parties of at least one set of counterparts hereof. The parties authorize each other to detach and combine signature pages and to consolidate them into a single identical document. Any one of the completely executed counterparts shall be sufficient proof of Addendum. The parties acknowledge and agree that facsimile copies of their signatures hereunder shall be binding as if they were originally executed documents.

Signatures appear on following page

IN WITNESS WHEREOF, Seller and Buyer have entered into this Addendum as of the effective date set forth above.

SELLER:

John Doe, Co-Trustee of the
_____ Trust dated _____, _____

Jane Smith, Co-Trustee of the
_____ Trust dated _____, _____

BUYER:

By