

**PURCHASE AND SALE AGREEMENT FOR ACQUISITION OF REAL PROPERTY
AND BILATERAL ESCROW INSTRUCTIONS**

THIS AGREEMENT (hereinafter "PSA"), entered into on _____ 2022, between the **CITY OF SANTA ANA**, a charter city and municipal corporation duly organized under the Constitution and laws of the State of California (hereinafter "City" or "Buyer"), and **Maria Arellano De Gamboa**, as Successor Trustee of the Gamboa Declaration of Trust, U/A Dated April 27, 1998 (hereinafter "Seller"), regardless of number or gender;

THEREFORE, for and in consideration of their mutual promises, covenants and agreements, and subject to the terms, conditions and provisions of this PSA, Seller agrees to sell to City, and City agrees to purchase from Seller, that certain real property (hereinafter "Said Real Property") legally described as follows:

SEE EXHIBIT "A" – Legal Description
ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF
(Commonly known as **2247 S. Evergreen Street, Santa Ana, CA 92707**)
(APN **016-211-26**)

Said purchase and sale of Said Real Property shall be in accordance with and subject to all of the following terms, conditions, promises, covenants, agreements and provisions, to wit:

1. **Conveyance by Seller.** Seller agrees to convey said real property to City, by Grant Deed, at the office of Fidelity National Title, 4400 MacArthur Blvd., Suite 200, Newport Beach, California within sixty (60) days from and after the date on which the City has approved this Agreement.
2. **Title to be Conveyed.** Seller agrees that, except as may hereinafter be otherwise expressly provided, said real property shall be conveyed by Seller to City, as aforesaid, free and clear of any and all conditions, restrictions, reservations, exceptions, easements, assessments, profits, limitations, encumbrances (whether monetary or non-monetary, general or specific, including any and all leasehold interests), liens, clouds or defects in title except those exceptions shown in Paragraph 15 below. Seller hereby warrants that the title to said real property to be conveyed by Seller to City shall be free and clear as provided above. Seller further agrees that acceptance by City of any deed to said real property, with or without knowledge of any condition, restriction, reservation, exception, easement, assessment, profit, limitation, encumbrance (whether monetary or non-monetary, general or specific, and including any and all leasehold interests), lien, cloud or defect in title, shall not constitute a waiver by City of its right to the full and clear title hereinabove agreed to be conveyed by Seller to City, nor of any right which might accrue to City because of the failure of Seller to convey title as hereinabove provided.
3. **Title Insurance.** Seller agrees to deliver to City, concurrently with the conveyance of said real property to City, within the time and at the place hereinabove specified for said conveyance of said real property, a policy of title insurance to be issued by the above mentioned title company, with the City therein named as the insured, in the amount of **Seven Hundred Eighty Five Thousand Dollars and no/100 Dollars (\$785,000.00)** insuring the title of the City to said real property is free and clear of any and all conditions, restrictions, reservations, exceptions, easements, assessments, profits, limitations, encumbrances (whether monetary or non-monetary, general or specific, and including any and all leasehold interests), liens, clouds or defects in title, excepting such specific ones as city may hereinafter expressly agree to take subject to. Acceptance by City of any such policy of insurance, whether such insurance complies with the requirements of this paragraph or not, shall not constitute a waiver by City of its right to such insurance as is herein required of Seller, nor a waiver by the City of any rights of action for damages or any other rights which may accrue to City by reason of the failure of Seller to convey title or to provide title insurance as required in this Agreement.

4. **Escrow.** City agrees to open an escrow at the office of Fidelity National Title, 4400 MacArthur Blvd., Suite 200, Newport Beach, California, (the Escrow Agent) within five (5) days from and after the date on which the City has approved this Agreement. This Agreement constitutes the joint escrow instructions of the City and the Seller and a duplicate original of this Agreement shall be delivered to the Escrow Agent upon the opening of the escrow. Escrow to close within sixty (60) days of the City's execution of this Agreement. If escrow is not in a condition to close by the Close of Escrow, and failure to close is due to unforeseen conditions of title or interest of third parties in the Property that cannot be resolved in Escrow, then buyer may, at its option, request cancellation of escrow and this Agreement and return of any funds it has deposited into escrow. Thereupon, all obligations and liabilities of the Parties under this Agreement shall cease and terminate. If no such request is made, Escrow shall be closed as soon as possible thereafter. Buyer shall be entitled to possession of the Property immediately upon close of Escrow.

The Escrow Agent hereby is empowered to act under this Agreement, and upon indicating its acceptance of this Section 4 and of the General Provisions described in **Exhibit "B"** attached hereto and incorporated herein by this reference, in writing, delivered to the City and to the Seller within five (5) days after delivery of this Agreement, shall carry out its duties as Escrow Agent hereunder.

City agrees to bear and Escrow Agent is hereby authorized to charge to the City the cost of any transfer taxes, recording fees, cost of title insurance, re-conveyance fees, document preparation fees, escrow fees and any other closing costs incidental to the conveying of said real property to City. Penalties for prepayment of bona fide obligations secured by any existing deed of trust or mortgage shall be waived pursuant to Civil Code Procedures Section 1265.240.

The liability to the Escrow Agent under this Agreement is limited to performance of the obligations imposed upon it under Section 4, Section 6, Section 8 and **Exhibit "B"** of the General Provisions of this Agreement.

5. **Property Taxes.** Such real property taxes, if any, on said real property for the fiscal year within which said real property is conveyed to City as are unpaid at the time of said conveyance shall be cleared and paid in accordance with the provisions of Section 4986 of the Revenue and Taxation Code of the State of California. Seller shall be eligible for a refund under Section 5096.7 of the Revenue and Taxation Code of the State of California for that portion of property taxes on said real property for said fiscal year which have been paid prior to the date the deed conveying said real property to City is recorded which is allocable to that portion of the fiscal year which begins on the date the deed conveying said real property to City is recorded and made uncollectible if unpaid by reason of Section 5086 of the Revenue and Taxation Code of the State of California. To the extent that Seller has prepaid any taxes or assessments attributable to the Property; Seller shall be solely responsible for obtaining any refund due thereon from the taxing authority. Upon written request, Buyer shall assist Seller, at Seller's sole cost, in obtaining said refund, if any; however, in no case shall Buyer credit or otherwise pay Seller for that refund, if any, through or outside of Escrow.

All unpaid taxes on said real property for any and all years prior to the fiscal year within which said conveyance is made shall be paid by Seller before conveyance of said real property to City.

6. **Payment of Purchase Price.** City agrees to pay to Seller, and Seller agrees to accept from City, as and for the full purchase price for said real property, fixtures & equipment (improvements pertaining to the realty), goodwill (if any), and severance damages, the total sum of **Seven Hundred Eighty Five Thousand Dollars and no/100 Dollars (\$785,000.00)**. City agrees to deposit said purchase price in escrow with the Escrow Agent within THIRTY (30) days from and after the date on which the City has approved this Agreement, and the Escrow Agent is hereby authorized to pay the same to Seller upon and after:

- a. Conveyance of said real property by Seller to City as hereinabove provided;
- b. Acceptance by City of a Grant Deed conveying said real property to City;

c. Delivery to City of the policy of title insurance as hereinabove provided;

d. Recordation of the Deed conveying said real property to City.

7. **Possession.** Seller agrees to deliver to City, on the date the Deed conveying said real property to City is recorded, quiet and peaceful possession of said real property, which shall be made free by Seller of all personal property.

a. No later than fourteen days (14) days after close of escrow, Seller shall have removed all merchandise, inventory, equipment, personal property, and/or removable trade fixtures from the Property. Any merchandise, inventory, equipment, personal property, and/or removable trade fixtures at the Property as of three days after close of escrow shall be deemed abandoned by Seller on that date.

b. If Seller does not vacate the Property by the above stated date, the Seller agrees to have the Court immediately issue a Writ of Possession and/or Assistance, directing the Marshall or Sheriff of Orange County to take physical possession of the Property in favor of the City. Seller waives the right to have the City file an unlawful detainer action, as well as waive the right to any hearing or any requirements for an application by City to obtain the Writ of Possession and/or Assistance and waives any and all rights to object to the issuance of said Writ if Seller does not vacate the Property by fourteen (14) days after close of escrow.

8. **Rental and Occupancy By Seller.** Seller agrees to execute a complete, current and correct statement of rentals (Seller Estoppel) on a form furnished to Seller by City and deliver same to City within fifteen (15) days hereof with copies of any written leases or rental agreements attached. All rents will be prorated as of the close of escrow on the basis of a 30-day month/360-day year consistent with that statement, subject to approval of City. Seller hereby agrees not to rent any units on the premises which are vacant as of the date that this agreement is executed by seller, or which may be vacated by present occupants prior to close of escrow. In return, the City agrees to reimburse seller lost rentals incurred by keeping units vacant through the close of escrow. Seller agrees that any and all Tenant Security Deposits pertaining to the subject property collected by or in the possession of Seller prior to the close of escrow shall be transferred to and become the property of City during escrow.

Seller hereby warrants that the rental statement referred to shall include the terms of all rental agreements, tenancies, and leases (written, unwritten, recorded, or unrecorded) and Seller agrees to hold City harmless from all liability from any such leases or agreements. Seller also warrants that there are no oral or written leases on all or any portion of the subject property exceeding a period of one month.

9. **Waivers.** The waiver by City of any breach of any covenant or agreement herein contained on the part of the Seller shall not be deemed or held to be a waiver of any subsequent or other breach of said covenant or agreement nor a waiver of any breach of any other covenants or agreements contained herein.

10. **Heirs, Assigns, Successors-in-Interest.** This PSA, and all the terms, covenants and conditions hereof, shall apply to and bind the heirs, executors, administrators, successors and assigns of the respective Parties hereto.

11. **Time is of the Essence.** In all matters and things hereunder to be done and in all payments hereunder to be made, time is and shall be of the essence.

12. **Just Compensation.** Seller acknowledges and agrees that said purchase price is just compensation at fair market value for said real property and includes payment for fixtures & equipment (improvements pertaining to the realty), goodwill (if any), and severance damages.

13. Acknowledgment of Full Benefits and Release.

- A. By execution of this Agreement, Seller, on behalf of himself, his heirs, executors, administrators, successors and assigns, hereby acknowledges that this Agreement provides full payment for the acquisition of the Property by Buyer, and Seller hereby expressly and unconditionally waives any claim for compensation for injury to the remainder ("severance damages"); precondemnation damages; claims for inverse condemnation; loss of goodwill and/or lost profits; loss or impairment of any "bonus value" attributable to any lease; damage to or loss of improvements pertaining to the realty; damage to or loss of machinery, fixtures, inventory, equipment and/or personal property; any right to repurchase, leaseback from Seller, or receive any financial gain from, the sale of any portion of the Property, or challenge Buyer's adoption of a resolution of necessity, pursuant to Code of Civil Procedure sections 1245.245; any right to receive any notices pursuant to Code of Civil Procedure section 1245.245; any right to enforce any other obligation placed upon Seller pursuant to Code of Civil Procedure sections 1245.245, 1263.025 and 1263.615; any other rights conferred upon Sellers pursuant to Code of Civil Procedure sections 1245.245 and 1263.615 and 1263.025; and attorney's fees and costs. It being understood that this is a complete and full settlement of all acquisition claims, liabilities, or benefits of any type or nature whatsoever relating to or in connection with the acquisition of the Property by Buyer. This release shall survive the Close of Escrow.
- B. This Agreement arose out of Buyer's efforts to acquire the Property through its municipal authority. Seller, on behalf of himself, his heirs, executors, administrators, successors and assigns, hereby fully releases Buyer, its successors, agents, representatives (including attorneys), and assigns, and all other persons and associations, known or unknown, from all claims and causes of action by reason of any damage which has been sustained by Seller, or may be sustained by Seller, as a result of Buyer's efforts to acquire the Property or to construct the works of improvement thereon, or any preliminary steps thereto. This Agreement does not, and shall not be construed to, require Seller to indemnify Buyer for damages which may arise as a result of Buyer's efforts to construct improvements on the Property.

This acknowledgment and release shall survive the Close of Escrow.

14. Notices. The mailing address of the City of Santa Ana is 20 Civic Center Plaza, M-36, P.O. Box 1988, in the City of Santa Ana 92701, County of Orange, State of California. The mailing address of the Seller is 2247 S. Evergreen Street, Santa Ana, CA 92707.

15. Exceptions. City agrees to accept title to said real property subject to the following: NONE.

16. Entire Agreement. It is mutually agreed that the Parties hereto have herein set forth the whole of their Agreement. Performance of this PSA by City shall lay at rest, each, every, and all issue(s) that were raised or could have been raised in connection with the acquisition of Said Real Property by City.

17. Hazardous Waste. Neither Seller nor, to the best of Seller's knowledge, any previous owner, tenant, occupant, or user of the Property used, generated, released, discharged, stored, or disposed of any hazardous waste, toxic substances, or related materials ("Hazardous Materials") on, under, in, or about the Property, or transported any Hazardous Materials to or from the Property. Seller shall not cause or permit the presence, use, generation, release, discharge, storage, or disposal of any Hazardous Materials on, under, in, or about, or the transportation of any Hazardous Materials to or from, the Property. The term "Hazardous Material" shall mean any substance, material, or waste which is or becomes regulated by any local governmental authority, the State of California, or the United States Government, including, but not limited to, any material or substance which is (i) defined as a "hazardous waste", "extremely hazardous waste", or "restricted hazardous waste" under Section 25115, 25117 or 25122.7, or listed pursuant to Section 25140 of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law), (ii) defined as "hazardous substance" under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act), (iii) defined as a "hazardous material", "hazardous substance", or "hazardous waste" under Section 25501 of the California Health and

Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory), (iv) defined as a "hazardous substance" under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances), (v) petroleum, (vi) asbestos, (vii) polychlorinated biphenyls, (viii) listed under Article 9 or defined as "hazardous" or "extremely hazardous" pursuant to Article 11 of Title 22 of the California Administrative Code, Division 4, Chapter 20, (ix) designated as a "hazardous substances" pursuant to Section 311 of the Clean Water Act, (33 U.S.C. S1317), (x) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. S6901 et seq. (42 U.S.C. S6903) or (xi) defined as a "hazardous substances" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, as amended by Liability Act, 42. U.S.C. S9601 et seq. (42 U.S.C. S9601).

18. Compliance With Environmental Laws. To the best of Seller's knowledge the Property complies with all applicable laws and governmental regulations including, without limitation, all applicable federal, state, and local laws pertaining to air and water quality, hazardous waste, waste disposal, and other environmental matters, including, but not limited to, the Clean Water, Clean Air, Federal Water Pollution Control, Solid Waste Disposal, Resource Conservation Recovery and Comprehensive Environmental Response Compensation and Liability Acts, and the California Environment Quality Act, and the rules, regulations, and ordinances of the city within which the subject property is located, the California Department of Health Services, the Regional Water Quality Control Board, the State Water Resources Control Board, the Environmental Protection Agency, and all applicable federal, state, and local agencies and bureaus.

19. Indemnity. Seller agrees to indemnify, defend and hold the City harmless from and against any claim, action, suit, proceeding, loss, cost, damage, liability, deficiency, fine, penalty, punitive damage, or expense (including, without limitation, attorneys' fees), resulting from, arising out of, or based upon (i) the presence, release, use, generation, discharge, storage, or disposal of any Hazardous Material on, under, in or about, or the transportation of any such materials to or from, the Property, or (ii) the violation, or alleged violation, of any statute, ordinance, order, rule, regulation, permit, judgment, or license relating to the use, generation, release, discharge, storage, disposal, or transportation of Hazardous Materials on, under, in, or about, to or from, the Property. This indemnity shall include, without limitation, any damage, liability, fine, penalty, punitive damage, cost, or expense arising from or out of any claim, action, suit or proceeding for personal injury (including sickness, disease, or death, tangible or intangible property damage, compensation for lost wages, business income, profits or other economic loss, damage to the natural resource or the environment, nuisance, pollution, contamination, leak, spill, release, or other adverse effect on the environment). This indemnity extends only to liability created prior to or up to the date this escrow shall close. Seller shall not be responsible for acts or omissions to act post close of this escrow.

20. Contingency. It is understood and agreed between the parties hereto that the completion of this transaction, and the escrow created hereby, is contingent upon the specific acceptance and approval of the City herein. The execution of these documents and the delivery of same to Escrow Agent constitute said acceptance and approval.

21. Modification and Amendment. This PSA may not be modified or amended except in writing signed by the Seller and City.

22. Partial Invalidity. Any provision of this PSA that is unenforceable or invalid or the conclusion of which would adversely affect the validity, legality, or enforcement of this PSA shall have no effect, but all the remaining provisions of this PSA shall remain in full force.

23. Captions. Captions and headings in this PSA, including the title of this PSA, are for convenience only and are not to be considered in construing this PSA.

24. Governing Law. This PSA shall be governed by and construed in accordance with the laws of the State of California.

25. **No Reliance By One Party On The Other.** Each party has received independent legal advice from its attorneys with respect to the advisability of executing this PSA and the meaning of the provisions hereof. The provisions of this PSA shall be construed as to their fair meaning, and not for or against any party based upon any attribution to such party as the source of the language in question.

26. **No Third Party Beneficiary.** This PSA is intended to benefit only the Parties hereto and no other person or entity has or shall acquire any rights hereunder.

27. **Duty To Cooperate Further.** Each party hereby agrees that it shall, upon request of the other, execute and deliver such further documents (in form and substance reasonably acceptable to the party to be charged) and do such other acts and things as are reasonably necessary and appropriate to effectuate the terms and conditions of this PSA, without cost.

28. **Applicability of Agreement To Assignees.** This PSA shall be binding upon and shall inure to the benefit of the successors and assigns of the Parties to this PSA.

29. **Authority to Execute Agreement.** Each undersigned represents and warrants that its signature herein below has the power, authority and right to bind their respective parties to each of the terms of this PSA, and shall indemnify City fully, including reasonable costs and attorney's fees, for any injuries or damages to City in the event that such authority or power is not, in fact, held by the signatory or is withdrawn.

30. **Incorporation of Exhibits.** All Exhibits referenced herein and attached hereto shall be incorporated as if fully set forth in the body of this PSA.

IN WITNESS WHEREOF, the Parties hereto have executed this PSA on the date and year first written above.

**SELLER: Maria Arellano De Gamboa, as Successor Trustee of the Gamboa Declaration of Trust, U/A
Dated April 27, 1998**

Maria Gamboa
Maria Arellano De Gamboa
Successor Trustee

Date: 5/19, 2022

**City/Buyer
City of Santa Ana**

Kristine Ridge
City Manager

Date: _____, 2022

Attest:

Daisy Gomez
City Clerk

Date: _____, 2022

Approved as to Form:

John M. Funk
John M. Funk
Sr. Assistant City Attorney

Date: May 20, 2022

RECOMMENDED FOR APPROVAL:

Nabil Saba
Executive Director
Public Works Agency

Date: _____, 2022

EXHIBIT "A"

THE LAND REFERRED TO HEREIN IS SITUATED IN COUNTY OF ORANGE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

LOT 25 IN BLOCK A OF TRACT NO. 1541, IN THE CITY OF SANTA ANA, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 45, PAGES 48 AND 49 OF MISCELLANEOUS MAPS, RECORDED IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

Assessor's Parcel Number: 016-211-26

EXHIBIT "B" (Fidelity National Title)

GENERAL ESCROW PROVISIONS

1. DEPOSIT OF FUNDS

The law dealing with the disbursement of funds requires that all funds be available for withdrawal as a matter of right by the title entity's escrow and/or sub escrow account prior to disbursement of any funds. Only wire-transferred funds can be given immediate availability upon deposit. Cashier's checks, teller's checks and Certified checks may be available one business day after deposit. All other funds such as personal, corporate or partnership checks and drafts are subject to mandatory holding periods which may cause material delays in disbursement of funds in this escrow. In order to avoid delays, all fundings should be wire transferred. Outgoing wire transfers will not be authorized until confirmation of the respective incoming wire transfer or of availability of deposited checks.

Deposit of funds into general escrow trust account unless instructed otherwise. You may instruct Escrow Holder to deposit your funds into an interest bearing account by signing and returning the "Escrow Instructions - Interest Bearing Account", which has been provided to you. If you do not so instruct us, then all funds received in this escrow shall be deposited with other escrow funds in one or more general escrow trust accounts, which include both non-interest bearing demand accounts and other depository accounts of Escrow Holder, in any state or national bank or savings and loan association insured by the Federal Deposit Insurance Corporation (the "depository institutions") and may be transferred to any other such escrow trust accounts of Escrow Holder or one of its affiliates, either within or outside the State of California. A general escrow trust account is restricted and protected against claims by third parties and creditors of Escrow Holder and its affiliates.

Receipt of benefits by Escrow Holder and affiliates. The parties to this escrow acknowledge that the maintenance of such general escrow trust accounts with some depository institutions may result in Escrow Holder or its affiliates being provided with an array of bank services, accommodations or other benefits by the depository institution. Some or all of these benefits may be considered interest due you under California Insurance Code Section 12413.5. Escrow Holder or its affiliates also may elect to enter into other business transactions with or obtain loans for investment or other purposes from the depository institution. All such services, accommodations, and other benefits shall accrue to Escrow Holder or its affiliates and Escrow Holder shall have no obligation to account to the parties to this escrow for the value of such services, accommodations, interest or other benefits.

Said funds will not earn interest unless the instructions otherwise specifically state that funds shall be deposited in an interest-bearing account. All disbursements shall be made by check of Fidelity National Title Company. The principals to this escrow are hereby notified that the funds deposited herein are insured only to the limit provided by the Federal Deposit Insurance Corporation. Any instruction for bank wire will provide reasonable time or notice for Escrow Holder's compliance with such instruction. Escrow Holder's sole duty and responsibility shall be to place said wire transfer instructions with its wiring bank upon confirmation of (1) satisfaction of conditions precedent or (2) document recordation at close of escrow. Escrow Holder will NOT be held responsible for lost interest due to wire delays caused by any bank or the Federal Reserve System, and recommends that all parties make themselves aware of banking regulations with regard to placement of wires.

In the event there is insufficient time to place a wire upon any such confirmation or the wires have closed for the day, the parties agree to provide written instructions for an alternative method of disbursement. WITHOUT AN ALTERNATIVE DISBURSEMENT INSTRUCTION, FUNDS WILL BE HELD IN TRUST IN A NON-INTEREST BEARING ACCOUNT UNTIL THE NEXT OPPORTUNITY FOR WIRE PLACEMENT.

2. PRORATIONS AND ADJUSTMENTS

All prorations and/or adjustments called for in this escrow are to be made on the basis of a thirty (30) day month unless otherwise instructed in writing. You are to use information contained on last available tax statement, rental statement as provided by the Seller, beneficiary's statement and fire insurance policy delivered into escrow for the prorations provided for herein.

3. SUPPLEMENTAL TAXES

The within described property may be subject to supplemental real property taxes due to the change of ownership taking place through this or a previous escrow transaction. Any supplemental real property taxes arising as a result of the transfer of the property to Buyer shall be the sole responsibility of Buyer and any supplemental real property taxes arising prior to the closing date shall be the sole responsibility of the Seller. TAX BILLS OR REFUNDS ISSUED AFTER CLOSE OF ESCROW SHALL BE HANDLED DIRECTLY BETWEEN BUYER AND SELLER.

4. UTILITIES/POSSESSION

Transfer of utilities and possession of the premises are to be settled by the parties directly and outside escrow.

5. PREPARATION AND RECORDATION OF INSTRUMENTS

Escrow Holder is authorized to prepare, obtain, record and deliver the necessary instruments to carry out the terms and conditions of this escrow and to order the policy of title insurance to be issued at close of escrow as called for in these instructions. Close of escrow shall mean the date instruments are recorded.

6. AUTHORIZATION TO FURNISH COPIES

You are authorized to furnish copies of these instructions, supplements, amendments, notices of cancellation and closing statements, to the Real Estate Broker(s) and Lender(s) named in this escrow.

7. RIGHT OF CANCELLATION

Any principal instructing you to cancel this escrow shall file notice of cancellation in your office in writing. You shall, within two (2) working days thereafter, deliver, one copy of such notice to each of the other principals at the addresses stated in this escrow. **UNLESS**

WRITTEN OBJECTION TO CANCELLATION IS FILED IN YOUR OFFICE BY A PRINCIPAL WITHIN TEN (10) DAYS AFTER DATE OF SUCH DELIVERY, YOU ARE AUTHORIZED TO COMPLY WITH SUCH NOTICE AND DEMAND PAYMENT OF YOUR CANCELLATION CHARGES. If written objection is filed, you are authorized to hold all money and instruments in this escrow and take no further action until otherwise directed, either by the principals' mutual written instructions, or by final order of a court of competent jurisdiction.

8. PERSONAL PROPERTY

No examination or insurance as to the amount or payment of personal property taxes is required unless specifically requested.

By signing these General Provisions, the parties to the escrow hereby acknowledge that they are indemnifying the Escrow Holder against any and all matters relating to any "Bulk Sales" requirements, and instruct Escrow Agent to proceed with the closing of escrow without any consideration of matter of any nature whatsoever regarding "Bulk Sales" being handled through escrow.

9. RIGHT OF RESIGNATION

Escrow Holder has the right to resign upon written notice delivered to the principals herein. If such right is exercised, all funds and documents shall be returned to the party who deposited them and Escrow Holder shall have no liability hereunder.

10. AUTHORIZATION TO EXECUTE ASSIGNMENT OF HAZARD INSURANCE POLICIES

Either Buyer, Seller and/or Lender may hand you the insurance agent's name and insurance policy information, and you are to execute, on behalf of the principals hereto, form assignments of interest in any insurance policy (other than title insurance) called for in this escrow, forward assignment and policy to the insurance agent, requesting that the insurer consent to such transfer and/or attach a loss payable clause and/or such other endorsements as may be required, and forward such policy(s) to the principals entitled thereto. It is not your responsibility to verify the information handed you or the assignability of said insurance. Your sole duty is to forward said request to insurance agent at close of escrow.

Further, there shall be no responsibility upon the part of Escrow Holder to renew hazard insurance policy(s) upon expiration or otherwise keep it in force either during or subsequent to the close of escrow. Cancellation of any existing hazard insurance policies is to be handled directly by the principals, and outside of escrow.

11. ACTION IN INTERPLEADER

The principals hereto expressly agree that you, as Escrow Holder, have the absolute right at your election to file an action in interpleader requiring the principals to answer and litigate their several claims and rights among themselves and you are authorized to deposit with the clerk of the court all documents and funds held in this escrow. In the event such action is filed, the principals jointly and severally agree to pay your cancellation charges and costs, expenses and reasonable attorney's fees which you are required to expend or incur in such interpleader action, the amount thereof to be fixed and judgment therefore to be rendered by the court. Upon the filing of such action, you shall thereupon be fully released and discharged from all obligations imposed by the terms of this escrow or otherwise.

12. TERMINATION OF AGENCY OBLIGATION

If there is no action taken on this escrow within six (6) months after the "time limit date" as set forth in the escrow instructions or written extension thereof, your agency obligation shall terminate at your option and all documents, monies or other items held by you shall be returned to the parties depositing same. In the event of cancellation of this escrow, whether it be at the request of any of the principals or otherwise, the fees and charges due Fidelity National Title Company, including expenditures incurred and/or authorized shall be borne equally by the parties hereto (unless otherwise agreed to specifically).

13. CONFLICTING INSTRUCTIONS

Upon receipt of any conflicting instructions, you are to take no action in connection with this escrow until non-conflicting instructions are received from all of the principals to this escrow (subject to sections 7, 9, 11 and 12 above).

14. DELIVERY/RECEIPT

Delivery to principals as used in these instructions unless otherwise stated herein is to be by hand in person to the principal, regular mail, email or fax to any of the contact information provided in these instructions. If delivered by regular mail receipt is determined to be 72 hours after such mailing. All documents, balances and statements due to the undersigned may be delivered to the contact information shown herein. All notices, change of instructions, communications and documents are to be delivered in writing to the office of **Fidelity National Title Company** as set forth herein.

15. STATE/FEDERAL CODE NOTIFICATIONS

According to Federal Law, the Seller, when applicable, will be required to complete a sales activity report that will be utilized to generate a 1099 statement to the Internal Revenue Service.

Pursuant to State Law, prior to the close of escrow, Buyer will provide Escrow Holder with a Preliminary Change of Ownership Report. In the event said report is not handed to Escrow Holder for submission to the County in which subject property is located, upon recording of the Grant Deed, Buyers acknowledge that the applicable fee will be assessed by said County and Escrow Holder shall debit the account of Buyer for same at close of escrow.

16. NON-RESIDENT ALIEN

The Foreign Investment in Real Property Tax Act (FIRPTA), Title 26 U.S.C., Section 1445, and the regulations there under, provide in part, that a transferee (buyer) of a U.S. real property interest from a foreign person must withhold a statutory percentage of the amount realized on the disposition, report the transaction and remit the withholding to the Internal Revenue Service (IRS) within twenty (20) days after the transfer. **Fidelity National Title Company** will not determine nor aid in the determination of whether the FIRPTA withholding provisions are applicable to the subject transaction, nor act as a Qualified Substitute under state or federal law, nor furnish tax advice to any party to the transaction. **Fidelity National Title Company** will not determine nor aid in the determination of whether the transaction will qualify for an exception or an exemption and is not responsible for the filing of any tax forms with the IRS as they relate to FIRPTA, nor responsible for collecting and holding of any documentation from the buyer or seller on the buyer's behalf for the purpose of supporting a claim of an exception or exemption. **Fidelity National Title Company** is not an agent for the buyer for the purposes of receiving and analyzing any evidence or documentation that the seller in the subject transaction is a U.S. citizen or resident alien. **Fidelity National Title Company** is not responsible for the payment of this tax and/or penalty and/or interest incurred in connection therewith and such taxes are not a matter covered by the Owner's Policy of Title Insurance to be issued to the buyer. **Fidelity National Title Company** is not responsible for the completion of any IRS documents or related forms related to the referenced statute. The buyer is advised: they must independently make a determination of whether the contemplated transaction is subject to the withholding requirement; bear full responsibility for compliance with the withholding requirement if applicable and/or for payment of any tax, interest, penalties and/or other expenses that may be due on the subject transaction; and they are responsible for the completion of any and all forms, including but not limited to applicable IRS documentation, and the mailing of those forms. The Buyer is advised any forms, documents, or information received from **Fidelity National Title Company** is not tax or legal advice and should not be construed as such nor treated as a complete representation of FIRPTA requirements. Buyer should seek outside counsel from a qualified individual to determine any and all implications of the referenced statute.

17. ENCUMBRANCES

Escrow Holder is to act upon any statements furnished by a lienholder or his agent without liability or responsibility for the accuracy of such statements. Any adjustments necessary because of a discrepancy between the information furnished Escrow Holder and any amount later determined to be correct shall be settled between the parties direct and outside of escrow.

You are authorized, without the need for further approval, to debit my account for any fees and charges that I have agreed to pay in connection with this escrow, and for any amounts that I am obligated to pay to the holder of any lien or encumbrance to establish the title as insured by the policy of title insurance called for in these instructions. If for any reason my account is not debited for such amounts at the time of closing, I agree to pay them immediately upon demand, or to reimburse any other person or entity who has paid them.

18. ENVIRONMENTAL ISSUES

Fidelity National Title Company has made no investigation concerning said property as to environmental/toxic waste issues. Any due diligence required or needed to determine environmental impact as to forms of toxification, if applicable, will be done directly and by principals outside of escrow. **Fidelity National Title Company** is released of any responsibility and/or liability in connection therewith.

19. USURY

Escrow Holder is not to be concerned with any questions of usury in any loan or encumbrance involved in the processing of this escrow and is hereby released of any responsibility or liability therefore.

20. DISCLOSURE

Escrow Holder's knowledge of matters affecting the property, provided such facts do not prevent compliance with these instructions, does not create any liability or duty in addition to these instructions.

21. FACSIMILE/ELECTRONIC SIGNATURE

Escrow Holder is hereby authorized and instructed that, in the event any party utilizes electronic or "facsimile" transmitted signed documents or instructions to Escrow Holder, you are to rely on the same for all escrow instruction purposes and the closing of escrow as if they bore original signatures. "Electronic Signature" means, as applicable, an electronic copy or signature complying with California Law.

22. CLARIFICATION OF DUTIES

Fidelity National Title Company serves ONLY as an Escrow Holder in connection with these instructions and cannot give legal advice to any party hereto.

Escrow Holder is not to be held accountable or liable for the sufficiency or correctness as to form, manner of execution, or validity of any instrument deposited in this escrow, nor as to the identity, authority or rights of any person executing the same. Escrow Holder's duties hereunder shall be limited to the proper handling of such money and the proper safekeeping of such instruments, or other documents received by Escrow Holder, and for the disposition of same in accordance with the written instructions accepted by Escrow Holder.

The agency and duties of Escrow Holder commence only upon receipt of copies of these Escrow Instructions executed by all parties.

23. FUNDS HELD IN ESCROW

When the company has funds remaining in escrow over 90 days after close of escrow or estimated close of escrow, the Company shall impose a monthly holding fee of \$25.00 that is to be charged against the funds held by the Company.

THIS AGREEMENT IN ALL PARTS APPLIES TO, INURES TO THE BENEFIT OF, AND BINDS ALL PARTIES HERETO, THEIR HEIRS, LEGATEES, DEVISEES, ADMINISTRATORS, EXECUTORS, SUCCESSORS AND ASSIGNS, AND WHENEVER THE CONTEXT SO REQUIRES THE MASCULINE GENDER INCLUDES THE FEMININE AND NEUTER, AND THE SINGULAR NUMBER INCLUDES THE PLURAL. THESE INSTRUCTIONS AND ANY OTHER AMENDMENTS MAY BE EXECUTED IN ANY NUMBER OF COUNTERPARTS, EACH OF WHICH SHALL BE CONSIDERED AS AN ORIGINAL AND BE EFFECTIVE AS SUCH.

MY SIGNATURE HERETO CONSTITUTES INSTRUCTION TO ESCROW HOLDER OF ALL TERMS AND CONDITIONS CONTAINED IN THIS AND ALL PRECEDING PAGES AND FURTHER SIGNIFIES THAT I HAVE READ AND UNDERSTAND THESE GENERAL PROVISIONS.

Fidelity National Title Company conducts escrow business under a Certificate of Authority No. 305350 issued by the California Department of Insurance.