# PURCHASE AND SALE AGREEMENT

## BETWEEN THE CITY OF SUNNYVALE AND

## HUY TU, TRUSTEE OF THE HUY TU TRUST AND THE HEIRS OR DEVISEES OF TAM T. LE

## (295 Commercial Street, Sunnyvale, California)

THIS PURCHASE AND SALE AGREEMENT (this "Agreement") is dated as of the Effective Date (as defined below), by and between the CITY OF SUNNYVALE, a California municipal corporation (the "Buyer"), and Huy Tu, Trustee of the Huy Tu Trust and the heirs or devisees of Tam T. Le, their interest subject to the administration of the estate of said decedent in Santa Clara County, Probate Case No. 20PR187795 (the "Seller"), collectively referred to as "the Parties". The effective date of this Agreement shall be _____, 2024, the "Effective Date" hereof.

IN CONSIDERATION of the respective agreements hereinafter set forth, Seller and Buyer agree as follows:

1. **Property Included in Sale**. Seller hereby agrees to sell and convey to Buyer, and Buyer hereby agrees to purchase from Seller, subject to the terms and conditions set forth herein, the following:

a. Real Property. All that certain real property consisting of approximately 0.75 acres of land located in the City of Sunnyvale, County of Santa Clara, State of California, having a property address of 295 Commercial Street, Sunnyvale, California (APN: 205-34-013), as more particularly described in **Exhibit A** attached hereto (the "Real Property");

b. Appurtenances. All rights, privileges, easements and rights-of-ways appurtenant to, or used in connection with the beneficial use and enjoyment of, the Real Property (collectively, the "Appurtenances"), including, without limitation, (i) all easements, rights of way, privileges, licenses, rights, benefits, tenements and appurtenances pertaining to the Real Property, (ii) any strips or gores of land adjoining the Real Property, (iii) any land lying in or under the bed of any street, alley, road or right-of-way open or proposed, abutting or adjacent to the Real Property, (iv) riparian rights, and rights of ingress or egress or other interests in, on or to any land, highway, street, road or avenue, open or proposed in, on, across, in front of abutting or adjoining the Real Property, and (v) mineral, oil, gas and similar estates and rights; and

c. Improvements. All improvements and fixtures located on the Real Property, excluding any fixtures owned by tenants or leased by Seller from third parties, but including the 4,800 square foot building located on the Real Property and any other structures presently located on the Real Property, and all apparatus, equipment and appliances (if any) owned by Seller and used in connection with the ownership, use, operation or occupancy of the Real Property (collectively, the "Improvements").

All of the items referred to in Sections 1(a), 1(b), 1(c) above are hereinafter collectively referred to collectively as the "Property."

2. **Purchase Price.**

a. Purchase Price. The total purchase price for the Property is Four Million Five Hundred Dollars ($4,500,000.00) (the "Purchase Price").

b. Payment of Purchase Price. The Purchase Price shall be paid as follows:

i. Deposit. Within five (5) Business Days after the Effective Date, Buyer shall deposit in escrow with First American Title Insurance Company with an address of 333 W. Santa Clara St., Suite 220, San Jose, California 95113; Attn: Teresa Woest (email: twoest@firstam.com) ("Escrow Holder"), an initial deposit in the amount of One Hundred Thousand Dollars ($100,000) (the "Deposit"). All sums constituting the Deposit shall be held in an interest-bearing account as directed by Buyer, and interest accruing thereon shall be held for the account of Buyer. If the sale of the Property as contemplated hereunder is consummated, the Deposit plus interest accrued thereon shall be credited against the Purchase Price. If the sale of the Property is not consummated for any reason then the Deposit plus interest accrued thereon shall immediately be returned to Buyer.

ii. Balance of Purchase Price. At the Closing, the balance of the Purchase Price shall be paid to Seller in cash.

iii. Independent Consideration. The Deposit being delivered by Buyer includes the amount of One Hundred No/100 Dollars ($100.00) as independent consideration for Seller's performance under this Agreement ("Independent Consideration"), which shall be retained by Seller in all instances. If the Closing occurs or if this Agreement is terminated for any reason, then Escrow Holder shall first disburse to Seller from the Deposit, the Independent Consideration. The Independent Consideration shall be nonrefundable under all circumstances and shall not be applied to the Purchase Price at Closing. The Independent Consideration, plus Buyer's agreement to pay the costs provided in this Agreement, has been bargained for as consideration for Seller's execution and delivery of this Agreement and for Buyer's review, inspection and termination rights during the Due Diligence Period (as defined below),) and such consideration is adequate for all purposes under any applicable law or judicial decision.

3. **Title to the Property.**

a. Title Policy. At the Closing, Seller shall convey to Buyer marketable and insurable fee simple title to the Property, by duly executed and acknowledged grant deed in the form attached hereto as Exhibit B (the "Deed"). Evidence of delivery of marketable and insurable fee simple title shall be the issuance by First American Title Insurance Company (the "Title Company") of an Extended Coverage Owner's Policy of

Title Insurance, in the full amount of the Purchase Price, insuring fee simple title to the Property in Buyer, subject only to the following:

i. the Title Company's standard printed exceptions;

ii. zoning ordinances and regulations and other laws or regulations governing the Property;

iii. such other exceptions listed in the Title Report and approved or deemed approved by Buyer pursuant to Section 4(a) below, but excluding the Excluded Exceptions (as defined below);

iv. matters affecting title created by Buyer;

v. liens to secure taxes and assessments not yet due and payable; and

vi. matters that would be revealed by a current survey.

All such exceptions listed in Sections 3(a)(i) through (vi) are defined herein as the "Permitted Exceptions," and the title policy described in this Section 3 is defined herein as the "Title Policy". Notwithstanding the foregoing, (i) deeds of trust and/or mortgages, mechanic's liens or other monetary liens or encumbrances on the Property (collectively, "Liens"), (ii) property taxes and assessments that are or may become delinquent prior to Closing, and (iii) exceptions or encumbrances to title which are created by Seller after the date of this Agreement (collectively, "Excluded Exceptions") shall not be Permitted Exceptions hereunder, whether Buyer gives written notice of such or not, and shall be paid off, satisfied, discharged, cured and/or removed by Seller at or before Closing, the same being a condition precedent for the benefit of Buyer hereunder. Buyer may elect at Closing to effect cure of any Excluded Exceptions not cured by Seller by payment, from the proceeds otherwise constituting the Purchase Price, of amounts required to satisfy and cure such Excluded Exceptions.

4. **Due Diligence Inspection.**

a. Title and Survey Review. Buyer's obligation to purchase the Property is conditioned upon Buyer's review and approval, in Buyer's sole discretion, of the condition and title of the Property pursuant to paragraphs (b) through (d) (the "Due Diligence Contingency").

b. Due Diligence Review. Seller shall make available to Buyer at a mutually agreed upon location in Sunnyvale, California within (5) days of the Effective Date, architectural drawings for the building, building permits, current service contracts, and documentation of the recent removal of asbestos, and any documents to disclose all material facts and defects (the "Due Diligence Items"). Buyer shall review and approve the Due Diligence Items by delivering to Seller the Approval Notice as described in paragraph (f), below, prior to the expiration of the Due Diligence Period. Buyer

acknowledges that the Due Diligence Items and other similar documentation provided by Seller hereunder, if any, were prepared from a variety of sources and Seller is providing such documentation solely as an accommodation and Seller is not making any representations, warranties or guarantees regarding the contents thereof, including, but not limited to, the accuracy or completeness of the information contained therein except as expressly set forth in this Agreement. Therefore, Buyer is not permitted to rely on the Due Diligence Items or any similar documentation provided by Seller hereunder, if any, and/or information contained therein except as expressly set forth in this Agreement. Buyer covenants, represents and warrants to Seller that Seller shall have no liability to Buyer or Buyer's officers, officials, employees, agents, and volunteers in any manner arising from the use or reliance on the Due Diligence Items by Buyer or any of Buyer's officers, officials, employees, agents, and volunteers. In addition to the delivery to make available Buyer of the Due Diligence Items, Seller agrees to make available to Buyer for review (and photocopying at Buyer's cost) at the Property or such other location as reasonably designated by Seller, upon not less than twenty-four hours prior written notice from Buyer to Seller, all other documents in Seller's files pertaining to the Property (but excluding any marketing studies, financing documents, Seller's internal memoranda, attorney-client privileged documents, any proposals, letters of intent, draft purchase and sale agreements and the like prepared by or for other prospective purchasers of the Property or any portion thereof, any document that would disclose Seller's cost of acquisition of the Property, information relating to the Seller itself including, without limitation, Seller's organizational documents, correspondence or emails between Seller and its attorney concerning this Agreement or the sale of the Property or any other confidential or proprietary information). Subject to Buyer's rights set forth in this Section, Buyer understands that Seller may not be providing Buyer with access to all information in Seller's possession or control related to the Property, but Seller shall disclose and deliver to Buyer all material facts and information to the extent required by applicable law.

c. Entry. Prior to close of the Due Diligence Period (as defined below,) Seller shall provide Buyer or Buyer's designee with reasonable access to the Property in accordance with the terms and conditions of this Section 4(c) in order for Buyer to investigate the Property and the physical conditions thereof, including without limitation such environmental, engineering and economic feasibility inspections and testing as Buyer may elect. Such access, investigation, inspections and tests shall be on the following terms and conditions:

i. Buyer shall pay for all inspections and tests ordered by Buyer.

ii. In connection with any entry by Buyer or its agents, employees or contractors onto the Property, Buyer shall give Seller reasonable advance notice of such entry. Without limiting the foregoing, prior to any entry to perform any on-site testing (including drilling, extracting soil samples and other invasive testing), Buyer shall give Seller written notice thereof, including the identity of the company or persons who will perform such testing and the proposed scope of the testing. Seller or its representative may, at Seller's option, be present to observe any testing or other inspection performed on the Property.

iii. Buyer shall repair any damage to the Property caused by Buyer's entry or testing and restore the Property to its condition prior to such testing, at Buyer's sole cost and expense if this transaction does not close. Until restoration is complete, Buyer will take commercially reasonable steps to cause any conditions on the Property created by Buyer's testing to not create any dangerous conditions on the Property. The foregoing covenant shall survive any termination of this Agreement.

iv. Buyer shall indemnify and hold Seller harmless from and against any costs, damages, liabilities, losses, expenses, liens or claims (including, without limitation, reasonable attorneys' fees) resulting from any entry on the Property by Buyer, its agents, employees or contractors in the course of performing the inspections, tests or inquiries provided for in this Agreement (but not including any claims resulting from the discovery or disclosure of pre-existing physical or environmental conditions or the non-negligent aggravation of pre-existing physical or environmental conditions on, in, under or about the Property). The foregoing indemnity shall survive the termination of this Agreement.

d. Service Contracts. Copies of all equipment leases, service contracts, maintenance contracts and other contracts and agreements (if any) currently in effect, relating to the ownership, operation and maintenance of the Property and entered into by Seller (collectively, the "Service Contracts") are included in the Due Diligence Items; provided, however, that the term "Service Contracts" shall not include any existing property management agreement to which Seller is a party or any other agreement between Seller and its affiliates (which excluded agreements shall, as a condition to Buyer's obligation to close, be terminated by Seller at its expense on or prior to the Closing Date). Buyer shall have the right to approve, in its sole discretion and during the Due Diligence Period, the Service Contracts Buyer elects to assume upon Closing. At or prior to expiration of the Due Diligence Period, Buyer shall provide to Seller a schedule setting forth the list of all the Service Contracts that shall be assigned to, and assumed by, Buyer at the Closing, if any (the "Assumed Contracts"), which schedule will be attached to the Assignment of Service Contracts as **Exhibit C**. Prior to Closing, Seller will terminate, at Seller's cost, for the benefit of Buyer all of the Service Contracts other than the Assumed Contracts. Without limiting the preceding sentence, at Buyer's request at any time after Buyer's satisfaction or waiver of the Due Diligence Contingency, Seller will deliver any required notices terminating such Service Contracts as Buyer may designate, as a courtesy to Buyer and without cost or liability to Seller.

e. Due Diligence Period. Buyer's inspections of the items listed in paragraphs (a) through (d) shall collectively be defined as the "Due Diligence Items". Buyer shall have until 5:00 p.m on the thirtieth (30th) day from the Effective Date of this Agreement or as mutually agreed upon by the Parties, to complete its review of the Due Diligence Items (the "Due Diligence Period").

i. Approval Procedure. Buyer shall notify Seller of Buyer's approval of the matters described in paragraphs (b) through (d), herein, by written notice (the "Approval Notice") delivered to Seller and Escrow Holder by the expiration of the Due Diligence Period. The Approval Notice shall contain Buyer's waiver of the matters

described in paragraphs (b) through (d), herein, and the conditions set forth therein. Conditional approval shall be deemed disapproval. Except as set forth in the applicable section, Buyer's failure to deliver the Approval Notice to Seller by the expiration of the Due Diligence Period in the manner described in this paragraph (f) shall be deemed Buyer's disapproval thereof and Buyer's election to terminate this Agreement.

5. **Conditions to Closing.**

a. Buyer's Conditions. In addition to the conditions set forth in Section 4, the following are conditions precedent to Buyer's obligation to purchase the Property:

i. Accuracy of Seller's Representations and Warranties. All of Seller's representations and warranties contained in or made pursuant to this Agreement shall be true and correct in all material respects as of the Closing Date.

ii. No Seller Breach. There shall be no breach of Seller's covenants and obligations set forth in this Agreement beyond any applicable notice and cure period.

iii. Seller's Deliveries. Seller shall have delivered the items described in Section 6(d) to Buyer or to Escrow Holder.

iv. Title Insurance. As of the Closing, the Title Company will issue or have irrevocably committed to issue the Title Policy to Buyer, subject only to the Permitted Exceptions.

v. No Change in Condition. On the Closing Date, the Property (including, without limitation, the Improvements) shall be in a state of repair at least as good as the state of repair as of the expiration of the Due Diligence Period, normal wear and tear alone excepted; there shall be no material change in the physical or environmental condition of the Property as of the expiration of the Due Diligence Period. Buyer shall leave the Property in broom clean condition free of debris, trash, and all personal belongings.

The Closing pursuant to this Agreement shall be deemed a waiver by Buyer of all unfulfilled conditions hereunder benefiting Buyer, including the Due Diligence Contingency.

b. Seller's Conditions. In addition to the conditions set forth in Section 4, the following are conditions precedent to Seller's obligation to sell the Property:

i. That all of Buyer's representations and warranties contained in or made pursuant to this Agreement shall be true and correct in all material respects as of the Closing Date, that there shall be no breach of Buyer's covenants and obligations set forth in this Agreement beyond any applicable notice and cure period, and that Buyer shall have delivered the items described in Section 6(d) to Seller or to Escrow Holder. The Closing pursuant to this Agreement shall be deemed a waiver by Seller of all unfulfilled conditions hereunder benefiting Seller.

c. Waiver of Conditions. The conditions set forth in Sections 4 and 5(a) are for the exclusive benefit of Buyer and the conditions set forth in Section 5(b) are for the exclusive benefit of Seller. If any of such conditions have not been satisfied or waived within the period provided, subject to Section 7(b), this Agreement may be terminated by the party benefiting from such condition, in which event the Deposit and all interest accrued thereon shall be returned to Buyer, and neither party shall have any further obligation to or rights against the other except as expressly provided in this Agreement. In the event that this Agreement terminates for a reason other than the default of Buyer or Seller under this Agreement, the cancellation charges required to be paid to Escrow Holder and the Title Company shall be borne one-half (½) by Seller and one-half (½) by Buyer, and all other charges shall be borne by the party incurring same. In the event this Agreement terminates because of the default of Buyer or Seller, the defaulting party shall pay all such cancellation charges.

6. **Closing and Escrow.**

a. Escrow Instructions. Upon execution of this Agreement, the parties hereto shall deposit an executed counterpart of this Agreement with Escrow Holder and this instrument shall serve as the instructions to Escrow Holder for consummation of the purchase and sale contemplated hereby. Seller and Buyer agree to execute such additional and supplementary escrow instructions as may be appropriate to enable Escrow Holder to comply with the terms of this Agreement; provided, however, that in the event of any conflict between the provisions of this Agreement and any supplementary escrow instructions, the terms of this Agreement shall control.

b. Closing. The Closing of the purchase and sale of the Property pursuant to this Agreement (the "Closing") shall be held and delivery of all items to be made at the Closing under the terms of this Agreement shall be made at the offices of Escrow Holder thirty (30) days from the Approval Notice, or as mutually agreed upon by the Parties (the "Closing Date"). Such date may be extended with the prior written approval of both Seller and Buyer, except as otherwise expressly provided in this Agreement. If the Closing does not occur on or before the Closing Date, Escrow Holder shall, unless it is notified by both parties to the contrary within five (5) days after the Closing Date, return to the depositor thereof items which may have been deposited hereunder (other than the Deposit, which shall be governed by Section 2(b)(i)). Any such return shall not, however, relieve either party hereto of any liability it may have for its wrongful failure to close.

c. Seller's Deliveries. At or before the Closing, Seller shall deliver to Escrow Holder the following:

i. the duly executed and acknowledged Deed conveying to Buyer the Real Property, the Appurtenances and the Improvements;

ii. two (2) duly executed and acknowledged counterparts, if applicable, of the Assignment of Service Contracts in the form attached hereto as Exhibit C;

iii. an affidavit pursuant to Section 1445(b)(2) of the Federal Code, and on which Buyer is entitled to rely, that Seller is not a "foreign person" within the meaning of Section 1445(f)(3) of the Federal Code;

iv. a properly executed California Franchise Tax Board Form 593-C certifying that Seller has a permanent place of business in California or is qualified to do business in California;

v. a closing statement prepared by Escrow Holder and approved in writing by Seller;

vi. such resolutions, authorizations, bylaws or other corporate and/or partnership documents or agreements relating to Seller as shall be reasonably required in connection with this transaction;

vii. a certificate of Seller, duly executed by Seller, confirming that all of the representations and warranties of Seller contained in Section 7(a) hereof are true and correct in all material respects as of the Closing Date, subject to modification for matters disclosed pursuant to Section 7(b) hereof;

viii. originals or copies of any Assumed Contracts; and\

ix. any other documents, instruments or records which are reasonably required by Escrow Holder to close the escrow and consummate the purchase of the Property in accordance with the terms hereof.

d. Buyer's Deliveries. At or before the Closing, Buyer shall deliver to Escrow Holder the following:

i. Cash or other immediately available funds for the remaining balance of the Purchase Price (minus the Deposit);

ii. two (2) duly executed and acknowledged counterparts of any applicable Assignment of Service Contracts in the form attached hereto as Exhibit C;

iii. such resolutions, authorizations, bylaws or other corporate and/or partnership documents or agreements relating to Buyer as shall be reasonably required in connection with this transaction;

iv. a closing statement prepared by Escrow Holder and approved in writing by Buyer; and

v. any other documents, instruments or records which are reasonably required by Escrow Holder to close the escrow and consummate the purchase of the Property in accordance with the terms hereof.

e. Prorations.

i. General Prorations. Real property taxes and assessments, utility charges, amounts payable under any Assumed Contracts and other expenses normal to the operation and maintenance of the Property, shall be prorated as of 11.59 p.m. on the day immediately preceding the Closing Date on the basis of a 365-day year. Buyer and Seller hereby agree that if any of the aforesaid prorations described in this Section cannot be calculated accurately on the Closing Date, then the same shall be calculated within sixty (60) days after the end of the calendar year in which the Closing occurs, and either party owing the other party a sum of money based on such subsequent proration(s) shall promptly pay said sum to the other party.

ii. Tax Refunds. If any reduction in real estate taxes or assessments affecting the Property shall be granted for the tax year in which the Closing occurs, Seller shall be entitled to receive its pro rata share of such reduction that accrued prior to the Closing Date, in the form of a refund from the taxing authority or payment from Buyer upon Buyer's receipt of a refund or credit against current taxes or assessments which is attributable to any such reduction.

The provisions of this Section 6(e) shall survive Closing.

f. Closing Costs and Adjustments. Seller shall pay the cost of any documentary stamp taxes, transfer taxes or similar taxes applicable to the sale of the Property. Seller shall pay the premium for Standard Title Policy the portion of the Title Policy attributable to ALTA extended, and Buyer shall pay the cost of any endorsements, if any, to the Title Policy requested by Buyer. Recording fees and all other costs and charges of the escrow for the sale shall be paid by the Seller.

g. Utilities. Seller shall cooperate with Buyer to transfer all utilities for the Property to Buyer's name at Closing. Seller shall be entitled to recover any and all deposits with respect to the Property held by any utility company as of the date of closing. To the extent Buyer fails to provide replacement deposits to any utility company such that Seller has not recovered its deposit, or if any such deposits are assignable and Seller elects to assign them to Buyer, the amount of such deposits shall be credited to Seller at Closing and the Purchase Price shall be adjusted accordingly. If Seller later receives any utility deposit that was credited to Seller at Closing, Seller shall deliver such deposit to Buyer.

h. Possession. Possession of the Property shall be delivered to Buyer at Closing.

7. **Representations and Warranties.**

a. Seller's Representations and Warranties. Seller hereby represents and warrants to Buyer that as of the date of this Agreement and, subject to Section 7(b) below, as of Closing:

i. No other person or entity has a contract or option to purchase, letter of intent, right of first refusal or first offer, or similar rights with respect to the Property that is now outstanding.

ii. Seller now has or will obtain (at its cost) the right to consolidate and transfer fee simple ownership to the Property to Buyer prior to expiration of the Due Diligence Period.

iii. Seller has received no written notice from any governmental authority with jurisdiction over the Property of any current violation by the Property of any laws or regulations applicable to the Property, and the Property is in compliance with any past notices of violations. Seller shall promptly provide Buyer with a copy of any such notices received after the Effective Date.

iv. There are no leases currently in effect with respect to the Property and there are no parties in possession of the Property, or any part thereof.

v. There are no contracts or agreements relating to the ownership, operation and maintenance of the Property that will survive the Closing, other than the Service Contracts. To Seller's knowledge, there are no defaults under or with respect to the Service Contracts.

vi. There is no litigation pending or threatened in writing against Seller with respect to the Property or Seller's ownership or operation of the Property.

vii. No condemnation or eminent domain proceedings are pending or threatened against the Property.

viii. Seller has provided to Buyer full and accurate copies of all material documents with respect to the Property that are in the possession of Seller, including the Due Diligence Items (including any Service Contracts and any and all information related to Hazardous Materials (as defined below) at the Property in Seller's or its authorized agents' or representatives' possession or of which Seller or its authorized agents or representatives are aware). The Due Diligence Items delivered to Buyer are true and complete copies of the same documents (originals or copies) that are in Seller's possession and used in connection with the operation and management of the Property. None of the Due Diligence Items provided to Buyer has been amended, modified or terminated except as disclosed in writing to Buyer.

ix. Seller has received no notice of any violation of Environmental Laws or the presence or release of Hazardous Materials (as defined below) on or from the Property in violation of Environmental Laws (as defined below) except as may be disclosed in any environmental reports or assessments included in the Due Diligence Items. The term "Environmental Laws" means the Resource Conservation and Recovery Act and the Comprehensive Environmental Response Compensation and Liability Act and other federal laws governing the environment as in effect on the date of this Agreement, together with their implementing regulations, guidelines, rules or orders as of

the date of this Agreement, and all state, regional, county, municipal and other local laws, regulations, ordinances, rules or orders that are equivalent or similar to the federal laws recited above or that purport to regulate Hazardous Materials.

x. Seller has not entered into any contracts for the sale, exchange or other disposition of the Property, or any portion thereof, which are still in force and effect, nor has Seller granted any rights of first refusal or first offer, options or other rights of any Person to purchase all or any portion of the Property (other than Buyer's rights under this Agreement).

xi. This Agreement and all documents executed by Seller which are to be delivered to Buyer at the Closing are or at the time of Closing will be duly authorized, executed, and delivered by Seller, and are or at the time of Closing will be legal, valid, and binding obligations of Seller.

xii. Seller is duly organized, validly existing and in good standing under the laws of the State of California with full power to enter into this Agreement, and Seller is duly qualified to transact business in California. This Agreement and all other documents executed by Seller and delivered to Buyer prior to or at the Closing (i) have been, or will be when delivered, duly authorized, executed and delivered by Seller; (ii) are binding obligations of Seller; (iii) do not violate the provisions of any agreement to which Seller is party or which affects the Property; subject, however, to applicable bankruptcy, insolvency and other similar laws affecting the enforcement of creditors' rights generally, and to principles of equitable remedies.

xiii. 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 ("OFAC") of the United States Department of the Treasury; and (b) is not engaged, directly or indirectly, in any dealings or transactions and is not otherwise associated with such person, group, entity or nation.

xiv. There are no attachments, execution proceedings, assignments for the benefit of creditors, insolvency, bankruptcy, reorganization or other proceedings pending or, to Seller's actual knowledge, threatened against Seller.

b. Notice of Breaches of Representations and Warranties.

i. Seller shall promptly notify Buyer in writing of any changed condition, receipt of notice or documentation, or acquired knowledge, that would alter any representation or warranty of Seller contained herein of which Seller becomes aware (any such changed condition, received notice or documentation or acquired knowledge being defined as a "Changed Condition"). Within five (5) Business Days after notification in writing by Seller to Buyer of any such Changed Condition, Seller, at Seller's own option and expense, may elect by written notice to Buyer to remedy the Changed Condition such

that Seller's representations are accurate, and the Closing Date may be extended for up to ten (10) days after the scheduled Closing Date in order for Seller to effectuate such remedy. If Seller does not elect to effectuate such remedy so as to cause Seller's representations to be accurate, or if Seller so elects but then fails to complete such remedy within such ten (10) day period, then Buyer may elect, by written notice to Seller given at any time thereafter, to terminate this Agreement, in which event (1) neither Buyer nor Seller shall have any further obligation under this Agreement, except for the obligations which expressly survive the termination of this Agreement, and (2) the Deposit shall be returned to Buyer. If, notwithstanding Seller's election not to effectuate such remedy, Buyer elects to consummate the purchase of the Property, Seller shall not be liable to Buyer as a result of any inaccuracy in any representation or warranty of Seller contained herein that results from such Changed Condition.

ii. Buyer shall promptly notify Seller in writing of any material inaccuracy in any representation or warranty of Seller contained herein of which Buyer becomes aware prior to the Close of Escrow ("Known Misrepresentation"). Within five (5) Business Days after notification in writing by Buyer to Seller of any Known Misrepresentation, Seller shall cure or remedy the underlying condition giving rise to such Known Misrepresentation, if such Known Misrepresentation is susceptible of cure, and the Closing Date shall be extended for up to ten (10) days after the scheduled Closing Date in order for Seller to effectuate such cure or remedy. If Seller is unable, despite Seller's commercially reasonable efforts, to so cure or remedy the underlying condition giving rise to such Known Misrepresentation such that Seller's representations are accurate within such ten (10) day period, then Buyer may elect, by written notice to Seller given at any time thereafter, to terminate this Agreement, in which event (1) neither Buyer nor Seller shall have any further obligation under this Agreement, except for the obligations which expressly survive the termination of this Agreement, and (2) the Deposit shall be returned to Buyer. Subject to the last sentence of this Section 7(b), if, notwithstanding Seller's failure to cure or remedy any Known Misrepresentation or Changed Condition, Buyer elects to consummate the purchase of the Property, Seller shall not be liable to Buyer as a result of the resulting breach of Seller's representations and warranties except to the extent arising from Seller's fraud. In addition, if Buyer has actual knowledge of a breach of a representation or warranty prior to the Closing, and fails to notify Seller of any material inaccuracy in any representation or warranty of Seller contained herein prior to Closing, Seller shall not be liable to Buyer for loss or damages resulting from such inaccuracy except to the extent arising from Seller's fraud. Notwithstanding the foregoing, if a Known Misrepresentation was intentionally made by Seller, Seller shall in breach of a material obligation under this Agreement and Buyer shall have the remedies set forth in Section 11.

c. Representations and Warranties of Buyer. Buyer hereby represents and warrants to Seller that as of the Effective Date and as of the Close of Escrow:

i. Buyer is duly organized and validly existing under the laws of the State of California and is qualified to do business and in good standing under the laws of the State of California; this Agreement and all documents executed by Buyer which are to be delivered to Seller at the Closing are or at the time of Closing will be duly authorized,

executed, and delivered by Buyer, and are or 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.

ii. Buyer (a) is not acting 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 OFAC; and (b) is not engaged in any dealings or transactions and is not otherwise associated with such person, group, entity or nation.

d. Continuation and Survival. All representations and warranties by the respective parties contained herein or made in writing pursuant to this Agreement shall survive the execution and delivery of this Agreement and the delivery of the deed and transfer of title, provided that the non-representing party must give the representing party written notice of any claim it may have against the representing party for a breach of any such representation or warranty within eighteen (18) months after the Closing Date or the expiration of the lease described in Section 7, whichever is shorter (the "Survival Period"). Any claim which either party may have at any time, whether known or unknown, which is not asserted within the Survival Period shall not be valid or effective, and the representing party shall have no liability with respect thereto.

8. **Seller's Covenants. Between the Effective Date and the Closing:**

a. Continuing Operations. Seller shall continue to maintain and operate the Property in good condition and repair and otherwise in the same manner as before the making of this Agreement. Between the Effective Date and the Closing, Seller will advise Buyer of any written notice Seller receives after the Effective Date from any governmental authority regarding the violation of any laws regulating the condition or use of the Property.

b. No Lease(s). Seller shall not enter into any leases, licenses or other similar occupancy agreements (collectively, "Leases") with respect to the leasing or occupancy of the Property or any portion thereof in each case without the prior written consent of Buyer, which Buyer may grant or withhold in its sole discretion. Buyer shall respond to any request for approval within five (5) Business Days after receipt of Seller's request.

c. No New Contracts. Seller shall not enter into any new Service Contracts or modify or terminate any Service Contracts or other similar arrangements pertaining to the Property that would be binding on Buyer or Property after Closing or waive any rights of Seller thereunder, without in each case obtaining the prior written consent of Buyer, which Buyer may grant or withhold in its sole discretion. Buyer shall respond to any request for approval within five (5) Business Days after receipt of Seller's request. Seller shall furnish Buyer with a copy of the proposed agreement, which shall

contain such information reasonably necessary to enable Buyer to make informed decisions with respect to the advisability of the proposed transaction.

d. Insurance. Seller shall maintain all insurance currently in force with respect to the Property.

e. No Transfer or Encumbrance. Seller shall not sell, mortgage, pledge, hypothecate, subdivide, or otherwise transfer or dispose of or encumber the Property or any interest therein or part thereof, nor shall Seller initiate, consent to, approve or otherwise take any action with respect to zoning or any other governmental rules or regulations applicable to the Property. Seller will not make any alterations to the physical condition of Property unless required to prevent imminent damage to the Property.

9. **Buyer's Review and Seller's Disclaimer.**

a. Buyer's Opportunity for Review. Prior to the expiration of the Due Diligence Period, Buyer will be given full opportunity to make a complete review and inspection of the Property, including, without limitation, all of the Due Diligence Items and any and all other matters and information provided by Seller or obtained or obtainable by Buyer (regardless of whether Buyer in fact obtains and/or reviews such information) relating to the physical, legal, economic and environmental condition of the Property, including, without limitation, a review of the results of any economic reviews and analyses of the Property and inspections of the structural condition (including seismic, electrical, life-safety, HVAC and other building system and engineering characteristics) of any Improvements that Buyer desires to conduct, any leases and contracts affecting the Property, books and records maintained by Seller or its agents relating to the Property that are in the Due Diligence Items, compliance with health, safety, land use and zoning laws, regulations and orders (including analysis of any applicable records of the planning, building, public works or other governmental or quasi-governmental entity having or asserting authority over the Property), traffic patterns, and any other information pertaining to the Property that is in the Due Diligence Items, or otherwise obtained by Buyer. In addition, during the Due Diligence Period, Buyer will be permitted to make a complete review and inspection of the environmental condition (including the soil condition, and the existence of asbestos, PCBs, hazardous waste and other toxic substances) of the Property.

b. Seller Disclosures and Buyer Acknowledgement. Buyer acknowledges the following:

i. Other than those specifically set forth in this Agreement and any documents entered into pursuant to this Agreement, Seller is not making and has not at any time made any warranty or representation of any kind, expressed or implied, with respect to the Property, including, without limitation, warranties or representations as to habitability, merchantability, fitness for a particular purpose, title (and Seller shall not have any liability to Buyer based upon any defect in the title acquired by Buyer), existing leases or tenants thereunder, zoning, tax consequences, latent or patent physical or environmental condition, utilities, operating history or projections, valuation, projections,

compliance with law, or the truth, accuracy or completeness of the Due Diligence Items or Property Files.

ii. Other than those specifically set forth in this Agreement, Buyer is not relying upon and is not entitled to rely upon any representations and warranties made by Seller or anyone acting or claiming to act on Seller's behalf.

iii. The Due Diligence Items, Property Files and other information obtained from Seller may include reports, projections and data prepared for Seller by third parties on which Buyer has no right to rely, Buyer has conducted (or will conduct) an independent evaluation of the matters addressed in such reports, and Seller have made no representation whatsoever as to the accuracy, completeness or adequacy of any such reports except as expressly set forth in this Agreement.

iv. Seller has made certain additional disclosures with respect to the Property, as shown on **Exhibit E** attached hereto. Buyer acknowledges and agrees that it has made its own assessment with respect to the matters so disclosed in deciding to purchase the Property pursuant hereto, and Seller is not making and has not made any warranty or representation of any kind, expressed or implied, including, without limitation, as to the truth, accuracy or completeness of the disclosures in **Exhibit E** and/or the Due Diligence Items related to such matters.

c. Excluded Claims. Notwithstanding anything to the contrary herein, the waivers, releases and other provisions limiting Seller's liability shall be inapplicable to claims by Buyer arising out of: (a) breach of Seller's express representations and warranties hereunder; (b) Seller's fraud or intentional tortious wrongdoing; or (c) the right of Buyer to name Seller or another releasee as a defendant in any third party tort claim filed against Buyer or its agents, affiliates, successors or assigns, to the extent such claim arose as a result of an injury to person or damage to property that occurred during Seller's period of ownership of the Property and was not caused by Buyer. The terms of Sections 9(a), 9(b) and 9(c) shall survive the Closing and not be merged therein.

d. As Is" Purchase. Buyer hereby agrees that it is purchasing the Property "as is," that is, in its present condition, and Seller makes no warranties or representations regarding the condition of the Property, including the soils and the improvements other than as specifically provided herein.

10. **Loss by Fire or Other Casualty; Condemnation.**

a. Casualty. Prior to the Closing, the entire risk of loss or damage to the Property by fire, earthquake, flood, windstorm or other casualty shall be borne by Seller, except as otherwise provided in this Section 10(a). If, prior to the Closing, any part of the Property is damaged or destroyed by fire or other casualty, Seller shall immediately notify Buyer of such fact. If such damage or destruction is Material Damage (defined below), Buyer shall have the option to terminate this Agreement upon notice to Seller given not later than ten (10) Business Days after receipt of Seller's notice of such Material Damage. For purposes hereof, "Material Damage" shall be deemed to be any damage

or destruction to the Property where the cost of repair or replacement is estimated by Seller to be One Hundred Thousand Dollars ($100,000) or more, or shall take more than sixty (60) days to repair, in Buyer's good faith judgment, or whether such damage or destruction is covered by insurance or not. Seller shall promptly provide Buyer with all information and documentation in Seller's possession or reasonably available to Seller relating to such damage or destruction, and any available insurance coverage, so that Buyer can make an informed decision as to whether or not it will proceed with the transaction or terminate the Agreement. If this Agreement is terminated pursuant to this Section 10(a), the provisions of Section 5(c) shall apply. If this Agreement is not terminated pursuant to this Section 10(a) or if the damage is not Material Damage, then Seller shall assign and turn over to Buyer all insurance proceeds payable to Seller with respect to such damage or destruction, provided Seller shall not be obligated to assign and turn over to Buyer any proceeds that exceed the cost to repair such loss or damage, and the parties shall proceed to the Closing pursuant to the terms hereof without modification of the terms of this Agreement and without any reduction in the Purchase Price. If this Agreement is not terminated pursuant to this Section 10(a), Buyer shall have the right to participate in any adjustment of the insurance claim, and Seller shall not adjust or settle any such claim without Buyer's prior written approval.

b. Condemnation. If, prior to the Closing, any portion of the Property is taken, or if the access thereto is restricted, by any applicable governmental authority under power of eminent domain or otherwise (each, a "Taking"), or if the Property becomes subject to a pending, threatened or contemplated Taking which has not been consummated, Seller shall immediately notify Buyer of such fact. In the event of any Taking or pending, threatened or contemplated Taking which in Buyer's good faith judgment would materially and adversely affect the value of the Property, or Buyer's ability to operate the Property (including any material impact on access rights), then Buyer shall have the option, in its sole and absolute discretion, to terminate this Agreement upon written notice to Seller given not later than five (5) Business Days after receipt of Seller's notice. If this Agreement is so terminated, the provisions of Section 5(c) shall apply. If Buyer does not timely exercise its option to terminate this Agreement, upon the Close of Escrow, Seller shall assign and turn over, and Buyer shall be entitled to receive and keep, all awards for any such Taking and the parties shall proceed to the Close of Escrow pursuant to terms hereof, without modification of the terms of this Agreement and without any reduction in the Purchase Price. Unless or until this Agreement is terminated, Seller shall take no action with respect to the settlement of any such Taking proceeding without the prior written approval of Buyer.

11. **Default.**

a. LIQUIDATED DAMAGES - DEPOSIT. IN THE EVENT BUYER DEFAULTS IN THE PERFORMANCE OF ANY OBLIGATION HEREUNDER, INCLUDING, BUT NOT LIMITED TO, FAILING TO PROCEED WITH THE CLOSING AND THE CONSUMMATION OF THE TRANSACTION HEREIN AS AND WHEN REQUIRED BY THE TERMS OF THIS AGREEMENT, BUYER AND SELLER AGREE THAT IT WOULD BE IMPRACTICAL AND EXTREMELY DIFFICULT TO ESTIMATE THE DAMAGES WHICH SELLER MAY SUFFER. THEREFORE BUYER AND SELLER

DO HEREBY AGREE THAT A REASONABLE ESTIMATE OF THE TOTAL NET DETRIMENT THAT SELLER WOULD SUFFER IN THE EVENT THAT BUYER BREACHES THIS AGREEMENT IS AND SHALL BE, AN AMOUNT EQUAL TO THE DEPOSIT (WHICH INCLUDES ANY ACCRUED INTEREST THEREON). SELLER'S RETENTION OF THE DEPOSIT AS LIQUIDATED DAMAGES SHALL BE SELLER'S SOLE REMEDY FOR BUYER'S FAILURE TO CONSUMMATE THE CLOSING AND THIS AGREEMENT, WITHOUT FURTHER ACTION OF THE PARTIES, SHALL BECOME NULL AND VOID AND NEITHER PARTY SHALL HAVE ANY FURTHER LIABILITIES OR OBLIGATIONS UNDER THIS AGREEMENT EXCEPT FOR THOSE LIABILITIES OR OBLIGATIONS WHICH EXPRESSLY SURVIVE TERMINATION OF THIS AGREEMENT AND ATTORNEY'S FEES AS REFERENCED IN SECTION 12. THE PARTIES ACKNOWLEDGE THAT THE PAYMENT OF SUCH LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY WITHIN THE MEANING OF CALIFORNIA CIVIL CODE SECTIONS 3275 OR 3369, BUT IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO SELLER PURSUANT TO CALIFORNIA CIVIL CODE SECTIONS 1671, 1676 AND 1677. THE PARTIES HAVE SET FORTH THEIR INITIALS BELOW TO INDICATE THEIR AGREEMENT WITH THE LIQUIDATED DAMAGES PROVISION CONTAINED IN THIS SECTION.

Seller's Initials Initial Signed by: 69FC887EDF6C441... Buyer's Initials _____

b. Buyer's Pre-Closing Remedies. In the event Seller fails to perform any act required to be performed by Seller pursuant to this Agreement on or before the Closing, then Buyer shall execute and deliver to Seller and Escrow Holder written notice of such breach, which notice shall set forth information about the nature of the breach. Seller shall have a period of five (5) business days to cure such breach; provided, however, if said breach of such a nature that it reasonably takes longer than five (5) business days to cure, Seller shall have such additional time as is reasonably necessary to cure such breach (not to exceed ten (10) business days) and, in either event, the Closing Date shall be extended as necessary to provide for said cure period. If such breach by Seller remains uncured beyond the period described above and Buyer is not then in breach of or default under this Agreement, then Buyer's sole and exclusive remedy shall be to either: (i) waive such breach and proceed with the Closing in which event Seller shall have no liability with respect to such matter; (ii) terminate this Agreement and receive a refund of the Deposit; (iii) provided such action is filed within thirty (30) days of the date of the alleged breach, seek specific performance of this Agreement wherein Buyer shall only be entitled to purchase the Property for the Purchase Price and shall not be entitled to any monetary damages, whether characterized as consequential, actual, delay, compensatory, punitive or otherwise, Buyer specifically waiving such rights to the fullest extent permitted by applicable law; or (iv) if Seller (a) transfers any ownership or possessory interest of the Property in violation of this Agreement prior to the earlier of the Closing or termination of this Agreement, or (b) willfully and intentionally refuses to close Escrow under this Agreement as and when required to proceeding with the Closing, Buyer may pursue its actual damages in connection with such violation. Notwithstanding

anything contained herein to the contrary, under no circumstances shall Buyer be entitled to consequential, punitive, special or exemplary damages for a breach by Seller occurring prior to the Closing, Buyer specifically waiving such rights to the fullest extent permitted by applicable law.

12. **Miscellaneous.**

a. Notices. Any notice required or permitted to be given under this Agreement shall be in writing and (i) personally delivered, (ii) sent by United States registered or certified mail, postage prepaid, return receipt requested, (iii) sent by Federal Express or similar nationally recognized overnight courier service, or (iv) transmitted by electronic mail. Such notice shall be deemed to have been given upon the date of actual receipt or delivery (or refusal to accept delivery), as evidenced by the notifying party's receipt of written or electronic confirmation of such delivery or refusal, if received by the party to be notified between the hours of 8:00 A.M. and 6:00 P.M. Pacific Time on any Business Day, with delivery made after such hours to be deemed received the following Business Day. In addition, within two (2) days of delivery of any notice given by Seller to Buyer under this Agreement which is transmitted through electronic mail, a copy of such notice shall also be sent to Buyer, in duplicate, by either of the methods provided in this Section. For purposes of notice, the addresses of the parties shall be as follows, provided that, any party, by written notice to the other in the manner herein provided, may designate an address different from that set forth below.

If to Buyer:
City of Sunnyvale
456 West Olive Avenue
P.O. Box 3707
Sunnyvale, CA 94088-3707
Attention: City Property Administrator
Email: snafie@sunnyvale.ca.gov

with a copy to:
City of Sunnyvale
456 West Olive Avenue
P.O. Box 3707
Sunnyvale, CA 94088-3707
Attention: Office of the City Attorney
Email: cityatty@sunnyvale.ca.gov

If to Seller:
Kinetic Real Estate
Attn: Giovani Franco
2 Tower Pl Suite 1380,
South San Francisco 94080
Email: Gio@kineticrealestate.com

or such other address(es) as either party may from time to time specify in writing delivered to the other in accordance with this Section 13(a).

b. Brokers and Finders. Kinetic Real Estate (DRE#02014153) represents Seller ("Seller's Broker") in this transaction and their commissions, if any are due, shall be the responsibility of Seller pursuant to a separate agreement. Other than Seller's Broker, neither party has had any contact or dealings regarding the Property, or any communication in connection with the subject matter of this transaction, through any licensed real estate broker or other person who can claim a right to a commission or finder's fee as a procuring cause of the sale contemplated herein. If any other broker or finder perfects a claim for a commission or finder's fee based upon any such contract, dealings or communication, the party through whom the broker or finder makes his claim shall be responsible for said commission or fee and all costs and expenses (including reasonable attorneys' fees) incurred by the other party in defending against the same. The provisions of this Section 13(b) shall survive the Closing.

c. Successors and Assigns. This Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors, heirs, administrators and permitted assigns. Buyer may assign its rights under this Agreement, without the prior written consent of Seller, provided, that such assignment will not be effective against Seller until Buyer delivers to Seller a fully executed copy of the assignment instrument, pursuant to which the assignee (i) assumes and agrees to perform for the benefit of Seller the obligations of Buyer under this Agreement, and (ii) acknowledges and agrees to be bound by all of the provisions, agreements, limitations and releases of this Agreement.

d. Amendments. Except as otherwise provided herein, this Agreement may be amended or modified only by a written instrument executed by Seller and Buyer.

e. Governing Law. The parties hereto acknowledge that this Agreement has been negotiated and entered into in the State of California. The parties hereto expressly agree that this Agreement shall be governed by, interpreted under, and construed and enforced in accordance with the laws of the State of California, without reference to its choice of laws rules.

f. Merger of Prior Agreements. This Agreement and the exhibits hereto constitute the entire agreement between the parties with respect to the purchase and sale of the Property and supersedes all prior agreements and understandings between the parties hereto relating to the subject matter hereof.

g. Attorneys' Fees. In any judicial action or proceeding between or among the parties to enforce any of the provisions of this Agreement each party shall bear its own attorney fees and costs.

h. Business Day. As used herein, the term "Business Day" shall mean a day that is not a Saturday, Sunday or legal holiday in the state where the Property is located. In the event that the date for the performance of any covenant or obligation under this Agreement, or delivery of any notice, shall fall on a non-Business Day, the date for performance thereof shall be extended to the next Business Day.

i. Time of the Essence. Time is of the essence of this Agreement.

j. Agreement Construction. This Agreement has been negotiated by the parties who have had the opportunity to consult their respective counsel. This Agreement shall not be construed more strictly against one party hereto than against any other party hereto merely by virtue of the fact that it may have been prepared by counsel for one of the parties. The term "including" or "includes" or any other similar term or phrase of inclusion shall be deemed to be followed in each instance by the words "but not limited to," so as to designate an example or examples of the described class and not to designate all members of that class (it being the intention of the parties that each hereby waives the benefits of Section 3534 of the California Civil Code). The term "sole discretion" or "sole election" shall mean the right to make a decision or election solely in the interest of the party making such decision or election, as such party may choose to make that judgment, for any reason or for no reason, and without regard to the interests of the other party. Neither party shall have any liability or obligation to the other for the manner in which it exercises its sole discretion, nor for the results thereof.

k. Exhibits. All exhibits are attached hereto and incorporated herein by this reference.

l. Headings. Headings at the beginning of any paragraph or section of this Agreement are solely for the convenience of the parties and are not a part of this Agreement or to be used in the interpretation hereof.

m. Waiver. No waiver by Buyer or Seller of a breach of any of the terms, covenants, or 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 contained. No waiver of any default by Buyer or Seller hereunder 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. The consent or approval by Buyer or Seller to or of any act by the other party requiring the consent or approval of the first party shall not be deemed to waive or render unnecessary such party's consent or approval to or of any subsequent similar acts by the other party.

n. Severability. If any phrase, clause, sentence, paragraph, section, article, or other portion of this Agreement shall become illegal, null or void or against public policy, for any reason, or shall be held by any court of competent jurisdiction to be illegal, null or void or against public policy, the remaining portions of this Agreement shall not be affected thereby and shall remain in force and effect to the fullest extent permissible by law.

o. Counterparts; Electronic Signatures. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which counterparts together shall constitute one agreement. This Agreement may be executed by a party's signature transmitted by electronic mail in pdf format ("pdf"), and copies of this Agreement executed and delivered by means of electronic signatures shall have the same force and effect as copies hereof executed and delivered with original signatures. All parties hereto may rely upon electronic signatures as if such signatures were originals. All parties hereto agree that an electronic signature page may be introduced into evidence in any proceeding arising out of or related to this Agreement as if it were an original signature page.

p. In the event that Seller wishes to enter into a tax deferred exchange for the Property, Buyer agrees to cooperate with Seller in such exchange, including the execution of documents that may be reasonably necessary to effectuate the exchange, provided that Buyer shall not be obligated to delay the closing, and all additional costs and documents in connection with the exchange shall be borne by and prepared by Seller.

**[Signature Page Follows]**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date(s) written below next to their respective signatures.

BUYER:

Date: _____

CITY OF SUNNYVALE,
a California Municipal Corporation

By:_____

Name: Tim Kirby_____

Its: City Manager_____

Attest:

_____
City Clerk

Approved as to Form:

_____
Sr. Assistant City Attorney

SELLER:

Date: 11/6/2024 | 4:22 PM PST

11/6/2024 | 4:25 PM PST

ENTITY
HUY TU, TRUSTEE OF THE HUY TU TRUST AND THE HEIRS OR DEVISEES OF TAM T. LE,

By: Signed by: C1EEFACB1F684F5... Signed by: 69FC887EDF6C441...

Name: _____

Its: _____

BY EXECUTION HEREOF, THE UNDERSIGNED ESCROW HOLDER HEREBY

COVENANTS AND AGREES TO BE BOUND BY THE TERMS OF THIS AGREEMENT.

TITLE INSURANCE COMPANY

By: _____

Name: _____

Its: _____

Date: _____

# EXHIBIT A

## REAL PROPERTY DESCRIPTION

Real property in the City of Sunnyvale, County of Santa Clara, State of California, described as follows:

APN: **205-34-013**

PORTION OF LOT 8, AS SHOWN ON THAT CERTAIN MAP ENTITLED "TRACT NO. 1025 INDUSTRIAL ACRES, UNIT NO, 1", WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, ON AUGUST 18, 1952 IN BOOK 40 OF MAPS AT PAGE(S) 11, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEASTERLY CORNER OF LOT 8, ON THE WESTERLY LINE OF COMMERCIAL STREET, AS SAID LOT AND STREET ARE SHOWN ON THE MAP ABOVE REFERRED TO; RUNNING THENCE FROM SAID POINT OF BEGINNING, S. 10° 29' W. AND ALONG THE WESTERLY LINE OF COMMERCIAL STREET, 95.35 FEET; THENCE LEAVING THE SAID WESTERLY LINE OF COMMERCIAL STREET AND RUNNING N. 86° 03' 30" W., AND PARALLEL WITH THE SOUTHERLY LINE OF SAID LOT 8 FOR A DISTANCE OF 394.80 FEET TO A POINT AND ON THE WESTERLY TINE OF SOLD LOT 8; RUNNING THENCE N. 10° 29' E. AND ALONG THE SAID WESTERLY LINE OF LOT 8 FOR A DISTANCE OF 71.99 FEET TO THE NORTHWESTERLY CORNER THEREOF; RUNNING THENCE S. 89° 24' E., AND ALONG THE NORTHERLY LINE OF SAID LOT 8, FOR A DISTANCE OF 398.15 FEET TO THE POINT OF BEGINNING.

# EXHIBIT B

## FORM OF DEED

RECORDING REQUESTED BY
WHEN RECORDED, RETURN TO:

---

THE UNDERSIGNED GRANTOR(s) DECLARE(s):
DOCUMENTARY TRANSFER TAX is $ _____.
CITY TAX $ _____.

[__] Computed on full value of property conveyed, or [__] Computed on full value less value of liens or encumbrances remaining at time of sale.
[__] Unincorporated area: City of _____.

## GRANT DEED

FOR VALUE RECEIVED, _____, a _____, grants to _____, a _____, all that certain real property, located in the City of _____, County of _____, State of California, more particularly described in Exhibit A, attached hereto and incorporated herein by reference thereto, together with any and all structures and improvements located thereon, and all of Grantor's right, title and interest in and to the rights, benefits, privileges, easements, tenements, hereditaments, and appurtenances to the extent belonging or appertaining to such real property or such structures and improvements.

IN WITNESS WHEREOF, Grantor has executed this Grant Deed as of this ____ day of _____, 20__.

Seller: _____,

a _____

By: _____
Its: _____

**[NOTARY ACKNOWLEDGEMENT IN PROPER FORM]**

Exhibit A to Grant Deed

Real Property Legal Description

# EXHIBIT C

## ASSIGNMENT AND ASSUMPTION OF CONTRACTS

THIS ASSIGNMENT AND ASSUMPTION OF CONTRACTS (the "**Assignment**") dated as of _____, 20__ is between _____, a _____ ("**Assignor**"), and _____, a _____, ("**Assignee**").

A. Assignor owns certain real property and improvements thereon located at _____ and more particularly described in **Exhibit 1** attached hereto (the "**Property**").

B. Assignor has entered into certain contracts which affect the Property, which contracts are described on **Exhibit 2** attached hereto (the "**Contracts**").

C. Assignor and Assignee have entered into an Agreement of Purchase and Sale dated as of _____, 20__ (the "**Agreement**"), pursuant to which Assignee agreed to purchase the Property from Assignor and Assignor agreed to sell the Property to Assignee, on the terms and conditions contained therein. Capitalized terms not otherwise defined here shall have the meaning given to such terms in the Agreement.

D. Assignor desires to assign its interest in the contracts with respect to the Property, and Assignee desires to accept the assignment thereof, on the terms and conditions below.

ACCORDINGLY, the parties hereby agree as follows:

1. As of the date on which the Property is conveyed to Assignee pursuant to the Agreement (the "**Conveyance Date**"), Assignor hereby assigns to Assignee all of its right, title and interest in and to the Contracts now owned by Assignor in connection with the Property.

2. As of the Conveyance Date, Assignee hereby assumes all of Assignor's obligations under the Contracts originating or accruing on or subsequent to the Conveyance Date.

3. In the event of any dispute between Assignor and Assignee arising out of the obligations of the parties under this Assignment or concerning the meaning or interpretation of any provision contained herein, each party will bear its own attorneys' fees and costs.

4. This Assignment shall be binding on and inure to the benefit of the parties hereto and their respective successors and assigns.

5. This Assignment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

Assignor and Assignee have executed this Assignment the day and year first above written.

ASSIGNOR: _____,

a _____
By: _____
Its: _____

ASSIGNEE: _____,

a _____
By: _____
Its:_____

Exhibit 1 to
Assignment and Assumption of Contracts
Real Property Description
[to come]

Exhibit 2 to
Assignment and Assumption of Contracts
[List]

# EXHIBIT E

## DISCLOSURE SCHEDULE

## [SELLER TO PROVIDE]