

**AGREEMENT OF PURCHASE AND SALE
AND JOINT ESCROW INSTRUCTIONS**

THIS AGREEMENT OF PURCHASE AND SALE AND JOINT ESCROW INSTRUCTIONS (“**Agreement**”) is made and entered into as of August 27, 2014, by and between SCHILLING PLACE PROPERTY, LLC, a California limited liability company and SCHILLING PROPERTY QC, LLC, a California limited liability company (collectively, “**Seller**”), and the COUNTY OF MONTEREY, CALIFORNIA, a political subdivision of the State of California (“**Buyer**”).

Buyer and Seller hereby agree as follows:

1. **Definitions.**

For the purposes of this Agreement, in addition to terms defined later within this Agreement, the following particular terms are defined as follows:

(a) “**Actual Knowledge of Seller**” means and is limited to the actual present knowledge of Barbara B. Hines, CEO, who is the person most knowledgeable concerning applicable matters with, for and at Seller as of the date hereof and as of the Closing Date.

(b) “**Additional Deposit**” shall have the meaning set forth in Section 3.1 hereof.

(c) “**Broker**” shall have the meaning ascribed thereto in Article 22 hereof.

(d) “**Building(s)**” means individually and collectively (1) the building known as 1441 Schilling Place, Salinas, California, containing approximately 202,358 square feet of rentable area of and situated on approximately 13.82 acres of land, and (ii) the building(s) known as 1488 and 1494 Schilling Place, Salinas, California, containing approximately 91,707 square feet of rentable area of and situated on approximately 9.54 acres of land, all situated on the Land and comprising a part of the Improvements, each as defined hereinbelow.

(e) “**Business Day**” means any day other than a Saturday, Sunday or other day on which banking institutions in the State of California are authorized by law or executive action to close.

(f) “**Capital One Leases**” means collectively the following leases:

(1) that certain Land and Building Lease by and between Schilling Place Property, LLC (successor-in-interest to Lincoln National Life Insurance Company, successor-in-interest to Alexander Hamilton Life Insurance Company of American) (as landlord) and Capital One, N.A. (together with its affiliates, “**Capital One**”) (successor-in-interest to HSBC Card Services, Inc.) (as tenant) dated as of December 28, 1990, as amended by that certain First Amendment to Land and Building Lease dated as of October 6, 1995 (together with all other amendments, addenda, memoranda and writings relating thereto), for the lease of the entire building known as 1441 Schilling Place, Salinas, California, and

(2) Schilling Property QC, LLC (successor-in-interest to Salinas Development Group) (as landlord) and Capital One (successor-in-interest to HSBC Card Services, Inc., fka Household Credit Services, Inc.) (as tenant) dated as of May 5, 2003 (together with all other amendments, addenda, memoranda and writings relating thereto) for the lease of the entire buildings known as 1488 and 1494 Schilling Place, Salinas, California.

(g) “**Capital One Lease Buyout**” means the potential lease buyout by the tenant under the Capital One Leases for the tenant’s termination of the Capital One Leases and surrender of all rights, title and interest in and to the Property and the Capital One Leases, and the corresponding landlord’s (i.e., Buyer’s and Seller’s) release and quitclaim of all further obligations and liabilities of the tenant, Capital One, under the Capital One Leases, other than continuing obligations and duties expressly provided under the Capital One Leases as surviving the expiration or earlier termination thereof (including, without limitation, continuing indemnity obligations and the like).

(h) “**Closing**” and “**Close of Escrow**” are terms used interchangeably in this Agreement. The Closing or the Close of Escrow will be deemed to have occurred when the Grant Deed (as hereinafter defined) is recorded in the official records of the county in which the Property is located.

(i) “**Closing Date**” means the date which is thirty (30) days after the Opening of PSA Escrow as defined in this Agreement, following the expiration of the Due Diligence Period and the mutual execution and delivery of this Agreement into Escrow (as defined in Article 4), and is the last date on which the Closing/Close of Escrow can occur, subject to extension as may be specifically provided for in this Agreement. The parties shall reasonably agree in writing, upon the written request of either party, to an extension of the Closing Date up to but not in excess of fifteen (15) additional days, so long as neither party is in default under this Agreement in any material respect.

(j) “**Deposit**” means the Initial Deposit and the Additional Deposit of \$250,000.00 which will be placed into Escrow by Buyer together with the Opening of PSA Escrow and delivery into Escrow of a mutually executed copy of this Agreement.

(k) “**Due Diligence Agreement**” means the Due Diligence and Access Agreement between Buyer (as County) and Seller (as Schilling LLC) dated as of June 3, 2014, pursuant to which Buyer performed its due diligence review of the Property.

(l) “**Due Diligence Period**” means the period is the period of time during which Buyer had to complete its due diligence as described in Article 9 under the Due Diligence Agreement, and elect to enter into this Agreement.

(m) “**Escrow**” as used in this Agreement shall mean the PSA Escrow, as defined in Article 4 below, unless otherwise expressly or clearly provided by the context referring to the Escrow under the Due Diligence Agreement.

(n) “**Effective Date**” means the date of the full execution and delivery of this Agreement by Buyer and Seller.

(o) “**Escrow Holder**” means First American Title Insurance Company, San Jose Office. Title officer is initially designated as Teresa Woest.

(p) “**Improvements**” means Seller’s right, title and interest in and to all Buildings (as defined hereinabove), structures, parking lots and improvements now or on the Closing Date situated on the Land (as defined below) and subject to the Capital One Leases.

(q) “**Initial Deposit**” means the \$100,000 deposit funded into Escrow under the Due Diligence Agreement.

(r) “**Intangible Property**” means, collectively, (i) any plans, specifications or surveys with respect to the Land and/or Improvements, (ii) any warranties, guarantees, indemnities, claims or causes of action with respect to or in connection with the Land, Improvements, Personal Property, and/or leases, and (iii) any name rights, website, web domain and/or other intangible personal property solely related to or used in connection with the Land and/or Improvements, (iv) all transferable consents, authorizations, variances or waivers, licenses, permits and approvals from any governmental or quasi-governmental agency, department, board, commission, bureau or other entity or instrumentality solely in respect of the Land or Improvements; (v) all instruction and/or operating manuals for any of the Personal Property; and (vi) all unpaid insurance claims or proceeds or awards for damages to the Land and/or Improvements resulting from any casualty or any taking.

(s) “**Land**” means that certain real property located in the City of Salinas, Monterey County, California, which is more particularly described on Exhibit “A” attached hereto and made a part hereof, together with all rights, privileges and easements appurtenant to said real property, and all right, title and interest of Seller, if any, in and to any land lying in the bed of any street, road, alley or right-of-way, open or closed, adjacent to or abutting the Land.

(t) “**Notices**” shall be sent as follows:

To Seller:

QueensCare
Administrative Offices
950 South Grand Avenue, 2nd Floor South
Los Angeles, CA 90015
Attn: Barbara B. Hines, Chief Executive Officer
Phone: (323) 669-4304
Email: bbhines@queenscare.org

with a copy to:

Gilchrist & Rutter, P.C.
1299 Ocean Avenue, Suite 900
Santa Monica, California 90401
Attn: Henry A. Herrman, Esq.
hherrman@gilchristutter.com

To Buyer:
County of Monterey
168 W. Alisal St.
Salinas, CA 93901
Attn: Benny Young, RMA Director
Phone: (831) 755-5862
Email: youngb@co.monterey.ca.us

with a copy to:

County Counsel
168 W. Alisal St.
Salinas, CA 93901
Attn: Leslie J. Girard, Chief Assistant
Email: girardlj@co.monterey.ca.us

To Escrow Holder:

First American Title Insurance Company
Attn: Teresa Woest, Senior Commercial Escrow Officer
1737 North First Street, Suite 500
San Jose, CA 95112
Phone: (408) 451-7972
Email: TWoest@firstam.com
Escrow Number: NCS 665219

To Title Company:

First American Title Insurance Company
1737 North First Street, Suite 500
San Jose, CA 95112
Attn: Mike D. Hickey
Phone: (408)451-7905
Email: mhickey@firstam.com or TWoest@firstam.com
Order Number: NCS-665219-SC

(u) **“Permitted Exceptions”** means, collectively, (1) liens for taxes, assessments and governmental charges not yet due and payable or due and payable but not yet delinquent, (2) such state of facts and exceptions to title as are disclosed in the Title Materials, (3) such other matters affecting the condition of title to the Property created by or with the written consent of Buyer, and such matters approved or deemed approved by Buyer in accordance with this Agreement, (4) in the event Buyer fails to cause a survey to be completed and delivered to the Title Company, any matters which would be shown by a survey of the

Property, and (5) rights of parties in possession under leases approved or deemed approved by Buyer.

(v) “**Personal Property**” means all furniture, carpeting, apparatus and equipment if any owned by Seller and currently used exclusively in the operation, repair and maintenance of the Land and Improvements and situated thereon, but excluding any property owned by contractors or licensees of Seller, and is subject to depletions, replacements and additions in the ordinary course of Seller’s business.

(w) “**Property**” means, collectively, all of Seller’s right, title and interest in and to the Land, the Improvements, the Intangible Property and the Personal Property.

(x) “**PSA Escrow**” shall have the meaning set forth in Article 4 hereof.

(y) “**Purchase Price**” means Thirty-Six Million Dollars (\$36,000,000.00), or such other amount as may be agreed upon in writing between Buyer and Seller according to the terms and conditions of this Agreement.

(z) “**Title Company**” means First American Title Insurance Company, San Jose Office.

(aa) “**Title Materials**” means that certain preliminary title report prepared by Title Company, dated as of April 10, 2014, Title Order No. NCS-665219-SC (“**PTR**”), copies of documents described in such report, and other materials relating to the foregoing.

2. **Purchase and Sale.**

Upon and subject to the terms and conditions set forth in this Agreement, Seller agrees to sell to Buyer and Buyer agrees to buy from Seller the Property, for the Purchase Price.

3. **Purchase Price.**

The Purchase Price for the Property shall be paid as follows:

3.1 **Deposit.** Concurrently with the Opening of the PSA Escrow (as defined in Article 4 below), Buyer will deliver to Escrow Holder in cash, by confirmed wire transfer or by certified or cashier’s check collectible in same day funds, the sum of \$250,000 (the “**Additional Deposit**”). Escrow Holder will invest the Additional Deposit in an interest bearing account and interest earned in Escrow will be for the account of Buyer, except as otherwise provided in this Agreement, and will be applied against the Purchase Price at Closing. Upon the delivery of the Additional Deposit into Escrow, the Deposit and any interest earned thereon in Escrow will become non-refundable to Buyer and shall be deemed earned by Seller (subject to being credited to the Purchase Price at Closing). Further, on the sixth (6th) day after the Opening of PSA Escrow (as defined in Article 4) (“**Deposit Release Date**”), the Deposit (\$350,000.00) and the interest earned thereon in Escrow shall be released and delivered by Escrow Holder to Seller automatically without further authorization or instruction by Seller or Buyer, unless Buyer terminates this Agreement by written notice to Seller and Escrow Holder as provided in this Agreement on or before the end of the Due Diligence Period. Seller and Buyer hereby authorize

and instruct Escrow Holder to deliver the Deposit and the interest earned thereon in Escrow to Seller on the Deposit Release Date, and hereby agree to indemnify and defend Escrow Holder against any and all claims, demands, damages, liabilities, costs and expenses, incurred by Escrow Holder and arising from Escrow Holder's so delivering the Deposit and the interest earned thereon in Escrow to Seller without further instruction or authorization. Seller and Buyer shall execute and deliver to Escrow Holder such additional instructions and other documents reasonably requested by Escrow Holder in order to authorize and instruct Escrow Holder to carry out the foregoing provisions regarding the Deposit and the interest earned thereon in Escrow.

If for any reason expressly set forth in this Agreement any portion of the Deposit and any interest earned thereon is to be returned to Buyer, such funds shall be released and delivered by Escrow Holder to Buyer automatically without further authorization or instruction by Seller or Buyer.

3.2 **Cash Balance.** At least one (1) Business Day prior to the Closing Date, Buyer will deposit into Escrow the balance of the Purchase Price in the form of cash, bank cashier's check or confirmed wire transfer of funds. In determining such balance, interest earned in Escrow on the Deposit shall be credited to Buyer.

3.3 **Capital One Lease Buyout.** The Improvements are currently leased by a single tenant, Capital One, as successor to the original tenant under the Capital One Leases (defined above), according to the terms and conditions of the Capital One Leases. The parties hereto acknowledge and agree that Buyer has negotiated the Capital One Lease Buyout with Capital One for the termination of the Capital One Leases. Buyer shall be entitled to require Capital One to post and deliver a good faith deposit into Escrow for the purpose of liquidating damages to Buyer in a like amount of Buyer's liquidated damages to Seller in the event of a failure to Close Escrow owing to a breach by Capital One to deliver the Capital One Lease Buyout price into Escrow at Closing, leading to Buyer's inability to Close and consequential default of this Agreement and liquidated damages to Seller in the Amount of then-applicable Deposit.

4. **Escrow.**

Within two (2) Business Days after the Effective Date of this Agreement, Buyer and Seller shall deliver to Escrow Holder in escrow (the "**PSA Escrow**") a fully executed copy of this Agreement (for purposes of this Agreement, including the Deposit Release Date and the Closing Date, such date of delivery into the PSA Escrow shall constitute the "**Opening of PSA Escrow**"), and the Escrow under the Due Diligence Agreement shall be converted into the PSA Escrow for purchase and sale of the Property and shall be the Escrow referred to in this Agreement. The purchase and sale of the Property will be completed through the PSA Escrow. Buyer and Seller agree to execute any additional instructions reasonably required by the Escrow Holder to carry out the intentions of this Agreement. If there is a conflict between any printed escrow instructions required by Escrow Holder and the terms of this Agreement, the terms of this Agreement will govern.

5. **Cancellation Fees and Expenses.**

If the Closing does not occur at the time and in the manner provided in this Agreement because of the default of one of the parties, the non-defaulting party has the right to cancel the

Escrow by written notice to the defaulting party and to the Escrow Holder. All costs of cancellation will be paid by the defaulting party and the Deposit and all interest accrued thereon shall be returned and disbursed to the non-defaulting party.

6. **Deliveries to Escrow Holder.**

6.1 **By Seller.** At least one (1) Business Day prior to the Closing Date, Seller shall deliver or cause to be delivered to Escrow Holder the following items:

(a) A Grant Deed ("**Grant Deed**"), in the form attached hereto as Exhibit "B", duly executed and acknowledged by Seller and in recordable form, conveying the Property to Buyer.

(b) A Transferor's Certificate of Non-Foreign Status in the form attached hereto as Exhibit "C" ("**FIRPTA Certificate**") duly executed by Seller.

(c) a duly executed California Franchise Tax Board Form 593-W (or other equivalent evidence sufficient to establish that Buyer is not required to withhold any portion of the Purchase Price pursuant to the California Revenue and Taxation Code) (the "**Form 593-W**").

(d) An executed Bill of Sale ("**Bill of Sale**") in the form attached hereto as Exhibit "D".

(e) An executed assignment and assumption of leases and contracts ("**Assignment**") in the form attached hereto as Exhibit "E"

(f) Such other documents as shall be reasonably requested by Title Company to effectuate the purposes and intent of this Agreement.

(g) Such other documents as shall be reasonably requested by Buyer's counsel to effectuate the purposes and intent of this Agreement.

6.2 **By Buyer.** At least one (1) Business Day prior to the Closing Date, Buyer shall deliver or cause to be delivered to Escrow Holder the following items:

(a) The balance of the Purchase Price in accordance with Article 3.

(b) The amount due to Seller, if any, after the prorations are computed in accordance with Article 14.

(c) An executed Assignment.

(d) Any assignment of this Agreement, if applicable.

(e) Such other documents as shall be reasonably requested by Seller's counsel to effectuate the purposes and intent of this Agreement.

6.3 **By Seller and Buyer.** Buyer and Seller will each deposit such other instruments consistent with this Agreement as are reasonably required by Escrow Holder or otherwise

required to close Escrow. In addition Seller and Buyer will designate the Title Company as the "Reporting Person" for the transaction pursuant to Section 6045(e) of the Internal Revenue Code.

7. **Condition of Title.**

At the Close of Escrow, fee simple title to the Property will be conveyed to Buyer by Seller by Grant Deed, subject only to the Permitted Exceptions as defined in Section 1(x) above.

8. **Conditions to the Close of Escrow.**

8.1 **Conditions Precedent to Buyer's Obligations.** The following conditions must be satisfied or waived by Buyer not later than the Closing Date or such other period of time as may be specified below:

(a) **Title.** Buyer shall have approved or waived all objections to the condition of title during the Due Diligence Period and prior to the Opening of PSA Escrow. Prior to the Effective Date, Seller has furnished to Buyer a preliminary report for the Property prepared by the Title Company ("**Title Report**") together with copies of the documents described in such report. Buyer has been given sufficient time following receipt of the Title Report and underlying documents (the "**Title Objection Period**") to examine the Title Report and notify Seller in writing of any defects in title or other objectionable matters (collectively, "**Title Defects**") disclosed by the Title Report and/or any survey of the Property obtained by Buyer (the "**Survey**"). If Buyer has not heretofore notified Seller of any such Title Defects before the expiration of the Title Objection Period, then unless Seller shall otherwise elect in writing, Buyer shall be deemed to have approved all matters disclosed by the PTR and Survey. Notwithstanding the foregoing, Seller shall cause all mortgages, deeds of trust and security interests in the real property, monetary liens, and all other encumbrances securing Seller's monetary obligations affecting the real property (the "**Monetary Liens**") to be released and discharged of record on or prior to the Closing. If Buyer has timely notified Seller of Title Defects prior to the expiration of the Title Objection Period, Seller has had sufficient time following receipt of Buyer's Title Defects notice, to advise Buyer that either:

(1) Seller will remove from the Title Policy (as defined in Article 12 below) any Title Defects or obtain appropriate endorsements in form reasonably acceptable to Buyer to the Title Policy to insure over such Title Defects on or before the Closing Date; or

(2) Seller will not cause the Title Defects to be removed.

If Seller advised Buyer that it will not cause the exceptions to be removed, Buyer has had sufficient further time after such notification by Seller to elect to proceed with entering into this Agreement and purchasing the Property subject to Title Defects but without reduction in the Purchase Price, and otherwise subject to the terms of this Agreement.

If Seller commits to remove any objection to title and fails to do so by the Closing Date, Seller will be in default under this Agreement and Buyer may, at Buyer's election, terminate this Agreement and pursue its remedies as set forth in Article 24.

(b) **Inspections and Studies.** Buyer shall have approved the property condition and results of all inspections and studies heretofore performed or obtained by Buyer.

(c) **Representations, Warranties and Covenants of Seller.** Seller shall have duly performed in all material respects each and every obligation to be performed by Seller hereunder, including but without limitation Sections 6.1 and 6.3, and, subject to the provisions of Article 10, Seller's representations, warranties and covenants set forth in this Agreement will be true and correct in all material respects as of the Closing Date.

(d) **No Material Changes.** At the Closing Date, there shall have been no material adverse changes in the physical condition of the Property which have occurred after the Due Diligence Period.

(e) **Seller's Deliveries.** Seller shall have delivered the items described in Section 6.1.

(f) **Title Insurance.** As of the Closing Date, the Title Company shall have issued or have unconditionally committed to issue the Title Policy to Buyer with only the Permitted Exceptions.

The conditions set forth in this Section 8.1 are solely for the benefit of Buyer and may be waived only by Buyer. At all times Buyer has the right to waive any condition by giving written notice of such waiver to Seller and Escrow Holder. Such waiver or waivers must be in writing to Seller. If any conditions are not satisfied on or before the end of the Due Diligence Period, the Closing Date or such other period of time as may be specified above, as applicable, and Buyer has not waived the unsatisfied conditions, Seller will not be deemed to be in default (unless Seller has breached Paragraphs 8.1(a), (c) or (e) above) and Buyer's sole remedy will be to terminate this Agreement and obtain the refund of the Deposit together with interest thereon.

8.2 **Conditions Precedent to Seller's Obligations.**

The following conditions must be satisfied or waived by Seller not later than the Closing Date or such earlier date as may be specified below:

(a) **Delivery of Purchase Price.** Buyer shall have delivered to Escrow Holder the balance of the Purchase Price and any amounts required under Section 6.2 by the time designated therein;

(b) **Representations, Warranties and Covenants of Buyer.** Buyer shall have performed in all material respects each and every obligation to be performed by Buyer hereunder, including but without limitation, those obligations set forth in Sections 6.2 and 6.3, and Buyer's Representations, Warranties and Covenants set forth in this Agreement shall be true and correct in all material respects as of the Closing Date.

The conditions set forth in this Section 8.2 are solely for the benefit of Seller and may be waived only by Seller. At all times, Seller has the right to waive any condition by giving written notice of such waiver to Buyer and Escrow Holder.

9. **Buyer's Due Diligence.**

9.1 **Seller's Delivery of Diligence Materials.** Buyer acknowledges and agrees that Seller has delivered to Buyer (or otherwise provided reasonable access to Buyer to) copies of all items described in Paragraphs 9.2(c), (d) and (e) below which are in Seller's possession, except appraisals and information that is privileged, confidential or proprietary. Buyer expressly agrees that Seller's furnishing copies of all such documents and information to Buyer was and remains for informational purposes only and without representation or warranty as to the accuracy or completeness of the contents of such materials except as otherwise provided in this Agreement. Notwithstanding the foregoing, nothing herein limits Seller's obligation to disclose to Buyer material conditions relating to the Property that are within the Actual Knowledge of Seller.

9.2 **Buyer's Review of Diligence Materials, Inspections and Reports.** Buyer has completed all of its due diligence and approved or disapproved (as applicable) all matters to be reviewed concerning the Property on or before the Effective Date hereof, including, without limitation the following:

(a) The physical condition of the Property, including without limitation, soil conditions, the status of the Property concerning Hazardous Substances (as defined in Section 20.1), and compliance of the Property with all applicable laws, including Environmental Laws (as defined in Section 20.1). Buyer and/or its agents have had and been given reasonable access to the Property to perform necessary investigations and inspections requested by Buyer (subject to the provisions of any due diligence and/or access agreement heretofore entered into by and between Buyer and Seller, and Articles 11 and 20 and any Environmental Assessment (as defined in Section 20.1) remains subject to the provisions of Article 20);

(b) All applicable government ordinances, rules and regulations and evidence of Seller's compliance therewith, including without limitation zoning and building regulations;

(c) All licenses, permits and other governmental approvals (including certificates of occupancy) and/or authorizations relating to the Property; and

(d) All leases, agreements (including maintenance and service agreements), contracts (including insurance policies and warranties), documents, instruments, reports (including soils and seismic reports), surveys, as-built plans and specifications, books and records relating to the Property and currently in the possession and control of Seller; and

(e) Tenant financial statements and estoppel certificates, if any, then available from tenants of the Property.

10. **Property "As-Is".**

10.1 **No Side Agreements or Representations.** No person acting on behalf of Seller, including any broker, is authorized to make, and by execution hereof, Buyer acknowledges that no person has made, any representation, agreement, statement, warranty, guarantee or promise regarding the Property or the transaction contemplated herein or the size, development potential, setbacks, easements, dedications, zoning, construction, physical or environmental condition, leases, tenancies, economic feasibility or ownership, or other status of the Property except as

may be expressly set forth in this Agreement. No representation, warranty, agreement, statement, guarantee or promise, if any, made by any person acting on behalf of Seller which is not contained in this Agreement will be valid or binding on Seller.

10.2 **AS-IS PURCHASE.** BUYER REPRESENTS AND WARRANTS TO SELLER THAT BUYER HAS INSPECTED, OR WILL INDEPENDENTLY AND PERSONALLY INSPECT, THE PROPERTY AND IMPROVEMENTS AND THAT BUYER HAS ENTERED INTO THIS AGREEMENT BASED UPON SUCH PERSONAL EXAMINATION AND INSPECTION. BUYER AGREES THAT BUYER WILL ACCEPT THE PROPERTY, AT CLOSE OF ESCROW, IN ITS THEN CONDITION AS-IS, WHERE-IS, AND WITH ALL FAULTS ACCEPTED, INCLUDING WITHOUT LIMITATION, THOSE FAULTS AND CONDITIONS SPECIFICALLY REFERENCED IN THIS AGREEMENT. BUYER ACKNOWLEDGES THAT NEITHER SELLER NOR ITS AGENTS HAVE MADE ANY REPRESENTATION OR WARRANTY (EXCEPT FOR THOSE SPECIFICALLY SET FORTH IN THIS AGREEMENT), EXPRESS OR IMPLIED, WRITTEN OR ORAL, TO BUYER OR ANY AGENT OF BUYER WITH RESPECT TO ANY MATTER CONCERNING THE PROPERTY, INCLUDING WITHOUT LIMITATION ITS PHYSICAL CONDITION OR THE CONDITION OF ANY MECHANICAL, ELECTRICAL, HEATING, VENTILATING AND AIR CONDITIONING OR OTHER SYSTEM OR SUBSYSTEM OF THE PROPERTY OR THE INTENTIONS OF TENANTS OR OCCUPANTS OF THE PROPERTY, IF ANY, IN RESPECT OF EXTENSIONS OR RENEWAL OR OTHER OPTIONS OR THE LIKE AS MAY EXIST PURSUANT TO THEIR RESPECTIVE LEASES. BUYER ACKNOWLEDGES THAT, NEITHER SELLER NOR ITS AGENTS HAVE MADE ANY REPRESENTATION OR WARRANTY TO BUYER CONCERNING THE INCOME THAT CAN BE EXPECTED FROM THE PROPERTY OR EXPENSES TO BE GENERATED BY OPERATION OF THE PROPERTY. IN PURCHASING THE PROPERTY, BUYER CONDUCTED A THOROUGH INSPECTION AND REVIEW OF THE PROPERTY AND HAS RELIED ENTIRELY ON SELLER'S EXPRESSED REPRESENTATIONS AND WARRANTIES HEREIN AND ON BUYER'S OWN INDEPENDENT INVESTIGATION AND ANALYSIS OF THE PROPERTY (INCLUDING, BUT NOT LIMITED TO BUYER'S REVIEW, INVESTIGATION AND APPROVAL OF WHETHER THE PROPERTY IS SUBJECT TO ANY SPECIAL FLOOD HAZARD AREA OR ANY AREA OF POTENTIAL FLOODING, ANY HIGH FIRE HAZARD SEVERITY ZONE, ANY WILDLAND AREA THAT MAY CONTAIN SUBSTANTIAL FOREST FIRE RISKS AND HAZARDS, ANY EARTHQUAKE FAULT ZONE, AND ANY SEISMIC HAZARD ZONE), AND BUYER ACKNOWLEDGES THAT, EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, (i) SELLER HAS NOT MADE ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WRITTEN OR ORAL, TO BUYER CONCERNING ANY OF THE MATTERS DESCRIBED ABOVE, OR ANY OTHER MATTER, AND (ii) ANY ORAL OR WRITTEN INFORMATION SUPPLIED BY SELLER TO BUYER IN RESPECT OF THE PROPERTY WAS INTENDED BY SELLER AND HAS BEEN USED BY BUYER SOLELY AS A BASIS FOR BUYER TO CONDUCT ITS OWN INVESTIGATION AND ANALYSIS OF THE PROPERTY AND, EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, BUYER HAS NOT RELIED ON ANY SUCH WRITTEN OR ORAL INFORMATION SUPPLIED OR PROVIDED BY SELLER TO BUYER. THE PURCHASE PRICE HAS BEEN NEGOTIATED WITH THE MUTUAL UNDERSTANDING THAT BUYER IS PURCHASING THE PROPERTY AS-IS AND THAT, BUYER'S COSTS ASSOCIATED WITH OPERATION

AND MANAGEMENT OF THE PROPERTY ARE UNCERTAIN. IT IS NOT CONTEMPLATED THAT THE PURCHASE PRICE WILL BE INCREASED IF THESE COSTS PROVE TO BE LESS THAN EXPECTED NOR WILL THE PURCHASE PRICE BE REDUCED IF THESE COSTS PROVE TO BE HIGHER THAN EXPECTED. THE SOLE REMEDY OF THE BUYER WILL BE TO TERMINATE THIS AGREEMENT AS PROVIDED HEREIN PRIOR TO THE END OF THE DUE DILIGENCE PERIOD.

Without limitation on the foregoing, except as expressly provided herein, Seller makes no representation or warranty in connection with any lease affecting the Property.

10.3 **Release.** Buyer unilaterally forever releases, discharges, and covenants to hold harmless Seller Parties from any and all claims, demands, controversies, actions, causes of action, obligations, liability, costs, expenses, attorneys' fees and damages of whatsoever character, nature or kind, in law or in equity, which arise from or are related to the physical condition of the Property (including, but not limited to, (i) Buyer's review, investigation and approval, and (ii) any obligation to determine and/or report to Buyer whether the Property is within, any special flood hazard area or any area of potential flooding, any high fire hazard severity zone, any wildland area that may contain substantial forest fire risks and hazards, any earthquake fault zone, and any seismic hazard zone); provided, however, that the foregoing release shall not apply to any claim Buyer may have against Seller arising from any material breach of Seller's covenants, obligations, representations or warranties expressly set forth in this Agreement.

It is the intention of the parties hereto that the foregoing release shall be effective so as to bar all claims, demands, controversies, actions, causes of action, obligations, liabilities, costs, expenses, attorneys' fees and damages of whatsoever character, nature or kind, known or unknown, suspected or unsuspected, which arise from or are related to the physical condition of the Property (subject to the exceptions set forth above), and Buyer expressly acknowledges and waives any and all rights and benefits conferred upon Buyer by the provisions of Section 1542 of the California Civil Code, which provides:

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

Buyer's Initials *Buy*

Buyer acknowledges the foregoing waiver of the provisions of Section 1542 of the California Civil Code was separately bargained for and voluntarily agreed upon by Buyer. Buyer further acknowledges that it has received the advice of legal counsel with respect to the aforementioned waiver and fully understands the terms and conditions thereof. This Section 10.3 shall survive the termination of this Agreement and the Close of Escrow.

11. **Buyer's Entry Onto Property.**

Buyer and Buyer's representatives, agents and designees have had and been given the right, at reasonable times and upon reasonable notice to Seller to enter upon the Property, in connection with its purchase of the Property. However, Buyer agrees that:

- (a) all tests have been performed at Buyer's sole cost and expense;
- (b) the persons or entities performing such tests have been properly licensed and qualified and obtained all appropriate permits for performing such tests;

12. **Title Insurance.**

At the Close of Escrow, Seller shall cause the Title Company to issue to Buyer a CLTA standard coverage owner's policy of title insurance in an amount equal to the Purchase Price showing fee title to the Property vested in Buyer subject only to the Permitted Exceptions and the standard printed exceptions and conditions in the policy of title insurance (the "**Title Policy**"). Buyer may elect, by written notice to Seller and Title Company prior to the end of the Due Diligence Period, to obtain an ALTA policy, and if Buyer so elects, the additional premium and the costs of a survey in connection with the ALTA policy over the cost of a CLTA policy required in connection with such ALTA policy will be at Buyer's sole cost and expense, and the term "**Title Policy**" shall mean an ALTA extended coverage title policy with such endorsements as identified by Buyer prior to the end of the Due Diligence Period and included in a pro forma title policy prepared by Title Company prior to the end of the Due Diligence Period. The cost of any endorsements will be at Buyer's sole cost and expense.

13. **Closing Costs and Expenses.**

Seller will pay:

- (a) the premium for a CLTA standard coverage owner's title policy;
- (b) one-half (1/2) of all escrow fees and costs;
- (c) Seller's share of prorations; and
- (d) all documentary transfer taxes.

Buyer will pay:

- (e) all document recording charges;
- (f) one-half (1/2) of all escrow fees and costs;
- (g) if Buyer elects to obtain an ALTA policy, the additional premium over the cost of a CLTA policy;
- (h) the costs of any Survey required by Buyer;

- (i) the cost of all title policy endorsements required by Buyer; and
- (j) Buyer's share of prorations.

Buyer and Seller will each pay all legal and professional fees and fees of other consultants incurred by Buyer and Seller, respectively. All other closing and escrow costs and expenses will be allocated between Buyer and Seller in accordance with the customary practice of Monterey County.

14. **Prorations.**

14.1 **Taxes/Assessments/Rents.**

(a) All real estate taxes and assessments on the Property are paid directly by and the responsibility of Capital One under the Capital One Leases. Accordingly, property taxes and assessments and the prorations thereof will be part and parcel of the Capital One Lease Buyout Price and negotiations thereon with Buyer. It is a condition precedent to the Closing that there are no delinquent taxes assessed against the Property.

(b) All rents, if any, which are actually received by Seller as of the Close of Escrow will be prorated, and Escrow Holder shall allocate to Seller its pro rata share of such rents for the period prior to the Close of Escrow as a credit to Seller in the prorations. Delinquent rents and rents not paid by Close of Escrow will not be prorated and Seller can continue to collect such rents; provided that Seller's remedies for collection of rent from tenants shall not include the right to bring an unlawful detainer action or any other suit to recover possession or terminate a lease. Rents allocable to the period prior to Closing will be retained by Seller. Rents allocable to the period after Closing will be delivered to Buyer.

14.2 **Security Deposits.** None

14.3 **Method of Proration.** Any prorations will be made as of the date of Close of Escrow based on a 365 day year and the actual number of days of the applicable month.

15. **Disbursements and Other Actions by Escrow Holder.**

At the Close of Escrow, Escrow Holder will promptly undertake all of the following:

15.1 **Funds.** Credit towards payment of the Purchase Price all funds previously deposited with Escrow Holder (plus interest earned thereon) by Buyer and disbursed by Escrow Holder to Seller upon the expiration of the Due Diligence Period in accordance with Paragraph 9.3(a); deduct or credit all items chargeable to the account of Seller and/or Buyer pursuant to Articles 13 and 14; disburse the balance of the Purchase Price to Seller and the remaining balance of the funds, if any, to Buyer promptly upon Close of Escrow.

15.2 **Recording.** Cause the Grant Deed (with documentary transfer tax information to be affixed after recording) to be recorded with the Monterey County Recorder and obtain conformed copies thereof for distribution to Buyer and Seller.

15.3 **Title Policy.** Direct the Title Company to issue the Title Policy to Buyer.

15.4 **Delivery of Documents to Buyer or Seller.** Deliver to Buyer the FIRPTA Certificate, Assignment and Bill of Sale and any other documents (or copies thereof) deposited into Escrow by Seller. Deliver to Seller the Assignment and any other documents (or copies thereof) deposited into Escrow by Buyer.

16. **Joint Representations and Warranties.**

In addition to any express agreements of the parties contained herein, the following constitute representations and warranties of the parties each to the other, each of which shall survive the Closing for a period of twelve (12) months; provided that any claims must be made within that twelve (12) month period.

16.1 **Power and Authority.** Each party has the legal power, right and authority to enter into this Agreement and the instruments referenced herein, and to consummate this transaction.

16.2 **No Further Action.** All requisite action (corporate, trust, partnership or otherwise) has been taken by each party in connection with the entering into of this Agreement, the instruments referenced herein, and the consummation of this transaction. No further consent of any partner, shareholder, creditor, investor, judicial or administrative body, governmental authority or other party is required.

16.3 **Authority of Individuals.** The individuals executing this Agreement and the instruments referenced herein on behalf of each party and the partners, managers, officers or trustees of each party, if any, have the legal power, right, and actual authority to bind each party to the terms and conditions of those documents.

16.4 **Enforceable Agreements.** This Agreement and all other documents required to close this transaction are and will be valid, legally binding obligations of and enforceable against each party in accordance with their terms, subject only to applicable bankruptcy, insolvency, reorganization, moratorium laws or similar laws or equitable principles affecting or limiting the rights of contracting parties generally.

17. **Seller's Warranties and Representations.**

Seller makes the following representations, covenants and warranties and acknowledges that Buyer will rely on such representations, covenants, and warranties in acquiring the Property, each of which shall survive the Closing for a period of twelve (12) months; provided that any claims must be made within that twelve (12) month period.

17.1 **No Leases.** Seller has not entered into any lease or other agreement for possession with any person or entity pursuant to which such person or entity has any current or future right or interest to occupy, possess or use all or any portion of the Property, except for the Capital One Leases.

17.2 **Compliance With Laws.** To the Actual Knowledge of Seller, and except as may have been disclosed to Buyer in writing, Seller has not received written notice alleging any violations of law, municipal or county ordinances, or other legal requirements with respect to the Property or any portion thereof which have not heretofore been corrected.

17.3 **Not Foreign Person.** Seller is not a “foreign person” within the meaning of Section 1445(f) (3) of the Internal Revenue Code.

17.4 **No Conveyances.** Without the prior written consent of Buyer, which will not be unreasonably delayed, Seller will not convey any interest in the Property, and Seller will not subject the Property to any additional liens, encumbrances, covenants, conditions, easements, rights of way or similar matters after the date of this Agreement, except as may be otherwise provided for in this Agreement, which will not be eliminated prior to the Close of Escrow.

17.5 **Affirmative Covenants.** So long as this Agreement remains in full force and effect, Seller shall:

(a) Maintain the Property in substantially the same condition as of the date of this Agreement, ordinary wear and tear excepted, and manage the Property in accordance with Seller’s established practices including ordinary repairs and replacements and will not unreasonably defer any maintenance to the Property.

(b) Keep and perform all of the obligations to be performed by Seller under any leases or contracts. Seller shall not enter into any contract or agreement providing for the provision of goods or services to or with respect to the Property or the operation thereof unless such contracts or agreements can be terminated without penalty by the Closing Date, without prior written consent of Buyer, which will not be unreasonably delayed. Except for the existing management agreement for the Property, Seller shall not terminate any contract or agreement approved by Buyer, without prior written consent of Buyer, which will not be unreasonably delayed. Seller will not enter into any new leases for any portion of the Property or extend the terms of any existing leases without Buyer’s written consent.

17.6 **No Litigation.** Seller has not been served in any pending litigation directly affecting the Property, and to the Actual Knowledge of Seller no such litigation has been threatened in writing, except as disclosed to Buyer.

17.7 **No Violations.** As of the date of this Agreement and of the Closing, to the Actual Knowledge of Seller, Seller has not been served by any governmental authority with written notice that the Property is in violation of any applicable law, except as disclosed to Buyer.

17.8 **No Demand.** To the Actual Knowledge of Seller, Seller has not received any written demand for performance from any person who has signed a letter of intent or any agreement (if any) with respect to the purchase and sale of the Property, except as disclosed to Buyer, and to the Actual Knowledge of Seller, none has been threatened..

17.9 **Environmental.** To the Actual Knowledge of Seller, and except as otherwise disclosed in any Environmental Assessment (as defined in Paragraph 20.1(b) below) performed by Buyer or as otherwise expressly disclosed to Buyer in the Due Diligence Materials,

(a) no Hazardous Substances are now or have been used or stored on any portion of the Property since the date of Seller's acquisition of the Property, except those substances which are or have been used or stored on the Property in the normal course of use and operation of the Property, and Seller has no Actual Knowledge of any noncompliance with or violation of any applicable Environmental Law in connection with such use or storage;

(b) there are and have been no federal, state, or local enforcement, cleanup, removal, remedial or other governmental or regulatory actions instituted or completed affecting the Property since the date of Seller's acquisition of the Property;

(c) Seller is aware of no claims having been made or threatened by any third party against Seller relating to or alleging any Hazardous Substances on or within the Property in violation of Environmental Laws; and

(d) to Seller's actual knowledge there are two (2) underground storage tanks ("USTs") located in the Land, as further disclosed, described and explained in the Due Diligence Materials to be provided to Buyer in accordance with this Agreement (and Seller makes no other representations or warranties whatsoever concerning these USTs, and Buyer hereby expressly waives all claims, causes of actions, and liabilities against Seller concerning such USTs).

17.10 **Specially Designated Nationals.** Neither Seller nor any beneficial owner of Seller (i) is listed on any of the Specially Designated Nationals and Blocked Persons List maintained by the Office of Foreign Assets Control, Department of the Treasury ("OFAC") pursuant to Executive Order No. 133224, 66 Fed. Reg. 49079 (the "Order") or on any other list of terrorists or terrorist organizations maintained pursuant to any of the rules and regulations of OFAC or any other similar agency (such lists are collectively referred to as the "Lists"); (ii) is a person or entity who has been determined by competent authority to be subject to the prohibitions contained in the Orders; or (iii) is owned or controlled by, or acts for on behalf of, any person or entity on the Lists or any other person or entity who has been determined by competent authority to be subject to the prohibitions contained in the Orders.

18. **Condemnation and Destruction.**

18.1 **Eminent Domain or Taking.** If proceedings under a power of eminent domain relating to the Property or any part thereof are commenced prior to Close of Escrow, Seller shall promptly inform Buyer in writing.

(a) If such proceedings involve the taking of title to all, or a material interest in, the Property, as reasonably determined by Buyer, Buyer may elect to terminate this Agreement by notice in writing sent within ten (10) Business Days of Seller's written notice to Buyer, in which case the Deposit and any interest thereon, less Buyer's share of escrow fees, will be returned to Buyer and neither party shall have any further obligation to or rights against the other except any rights or obligations of either party which are expressly stated to survive termination of this Agreement.

(b) If the proceedings do not involve the taking of title to all or a material interest in the Property, as reasonably determined by Buyer, or if Buyer does not elect to terminate this Agreement, this transaction will be consummated as described herein and any

award or settlement payable with respect to such proceeding will be paid or assigned to Buyer upon Close of Escrow.

(c) If this sale is not consummated for any reason, any condemnation award or settlement shall belong to Seller.

18.2 **Damage or Destruction.** Except as provided in this Section 18.2, prior to the Close of Escrow the entire risk of loss of damage by earthquake, flood, landslide, fire or other casualty is borne and assumed by Seller. If, prior to the Close of Escrow, any part of the Improvements is damaged or destroyed by earthquake, flood, fire or other casualty, Seller will promptly inform Buyer of such fact in writing and advise Buyer as to the extent of the damage and whether it is, in Seller's reasonable opinion, "material" or not "material."

(a) If such damage or destruction is "material," Buyer has the option to terminate this Agreement upon written notice to the Seller given not later than ten (10) Business Days after receipt of Seller's written notice to Buyer advising of such damage or destruction.

(b) For purposes hereof, "material" is deemed to be any damage or destruction to the Improvements where the cost of repair or replacement is estimated to be more than ten percent (10%) of the Purchase Price of the Property, or the operation of the Property would be materially impaired, as reasonably determined by Buyer.

(c) If this Agreement is so terminated, Buyer will be entitled to the return of the Deposit together with any interest thereon earned in Escrow less Buyer's share of escrow fees.

(d) If Buyer does not exercise this option to terminate this Agreement, or if the casualty is not material, Buyer shall proceed with the purchase without any reduction in the Purchase Price pursuant to the terms of this Agreement, and Buyer shall be entitled to any insurance proceeds applicable to such loss and the amount of any deductible.

19. **Indemnification.**

19.1 **Indemnification by Seller.** Seller agrees to indemnify, defend and hold Buyer harmless for, from and against any and all claims, demands, liabilities, costs, expenses (including without limitation attorneys' fees) damages and losses, cause or causes of action and suit or suits of any nature whatsoever arising from any misrepresentation or material breach of warranty or covenant by Seller in this Agreement or the Assignment. This indemnity does not apply, however, to any item, matter, occurrence or condition which was known to or reasonably discoverable by Buyer prior to the Closing Date.

19.2 **Indemnification by Buyer.** Buyer agrees to indemnify, defend and hold Seller harmless for, from and against any and all claims, demands, liabilities, costs, expenses (including without limitation attorneys' fees) damages and losses, cause or causes of action and suit or suits arising out of the ownership and/or operation of the Property after the Closing Date or any misrepresentation or breach of warranty or covenant by Buyer in this Agreement or any document delivered to Seller pursuant to this Agreement. This indemnity with respect to misrepresentation or breach of warranty or covenant by Buyer does not apply, however, to any

item, matter, occurrence or condition which was actually known to Seller on or prior to the Closing Date

20. **Environmental Assessment.**

20.1 **Definitions.** For the purposes of this Agreement, the following terms have the following meanings:

(a) **“Environmental Laws”** means any federal, state and local laws and regulations, judgments, orders and permits governing safety and health and the protection of the environment, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 et seq., as amended (CERCLA), the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq., as amended, (RCRA), the Clean Water Act, 33 U.S.C. 1251 et seq., the Clean Air Act, 42 U.S.C. 7401 et seq., the Toxic Substance Control Act, 15 U.S.C. 2601 et seq., and the Safe Drinking Water Act, 42 U.S.C. 300f through 300j.

(b) **“Environmental Assessment”** means an environmental assessment, review or testing of the Property performed by Buyer or any third party or consultant engaged by Buyer to conduct such study.

(c) **“Hazardous Substances”** means any substance which is toxic, ignitable, reactive, or corrosive or which otherwise is regulated by or under Environmental Laws including, without limitation, any and all materials or substances that are defined as “hazardous waste”, “extremely hazardous waste” or a “hazardous substance” pursuant to state, federal or local law, and asbestos, polychlorinated biphenyls (“PCBs”), petroleum products, and mold.

20.2 **Environmental Assessment.** Buyer acknowledges and agrees that Buyer has been provided a full and satisfactory opportunity during the Due Diligence Period to perform an Environmental Assessment, and Buyer has approved or waived all conditions of the Property and Buyer has elected to enter into this Agreement and proceed to Closing of the purchase of the Property pursuant to the terms and conditions of this Agreement.

20.3 **Mutual Indemnifications.**

(a) Notwithstanding the provisions of Article 10 above, and subject to Paragraph 20.3(d) below, if there are any third party claims against Buyer which arise out of any release of any Hazardous Substances which became located in, on or under the Property during Seller’s ownership of the Property, Seller will indemnify, defend (by counsel reasonably acceptable to Buyer), protect and hold Buyer harmless for, from and against any and all claims, liabilities, penalties, forfeitures, losses or expenses (including attorneys’ fees) arising therefrom in any amount not to exceed the Purchase Price of the Property.

(b) If there are any third party claims against Seller which arise out of any release of any Hazardous Substances which became located in, on or under the Property after the Closing, Buyer will indemnify, defend (by counsel reasonably acceptable to Seller), protect and hold Seller Parties harmless for, from and against any and all claims, liabilities, penalties, forfeitures, losses or expenses (including attorneys’ fees) arising therefrom.

(c) As used in this Section 20.3, “third party claims” are defined as any claims or rights of recovery by any person or entity (including governmental agencies):

(1) which result from injury, damage or loss to or of any person or property; or

(2) for cost recovery, removal or remedial action.

Third party claims will also include any costs paid or payable by either party for damage, loss, injury, investigation, removal, remediation or other liability in response to any third party claim or in anticipation of any enforcement or remedial action undertaken or threatened by any government agency or private party.

(d) Nothing in this Section 20.3 is meant to diminish any party’s rights or obligations under any Environmental Laws, but Seller will not be liable to Buyer under this Agreement, and Buyer hereby (i) releases Seller Parties from any and all liability under any such law, and (ii) indemnifies Seller Parties from and against any third party claims which are attributable to any environmental condition which:

(1) was specifically described in any Phase I Report or in any Environmental Assessment obtained by Buyer;

(2) was reasonably discoverable by prudent investigation during the Due Diligence Periods; or

(3) was otherwise disclosed by Seller to Buyer or discovered by Buyer at any time prior to the Closing.

(e) The provisions of this Section 20.3 will survive the Close of Escrow

21. **Notices.**

All notices, approvals, consents and other communications required or permitted hereunder must be in writing, and be personally delivered, sent by nationally-recognized overnight courier (such as Federal Express), or sent by registered or certified mail, postage prepaid, return receipt requested to the addresses set forth in Article 1, or sent by electronic mail to the addresses set forth in Article 1; provided, however, if notice is sent by electronic mail a copy shall be sent by registered or certified mail or nationally-recognized overnight courier on the same day. All notices sent by mail will be deemed received three (3) Business Days after the date of mailing, as aforesaid. All notices sent by electronic mail shall be deemed received upon the sender’s receipt of a written confirmation of receipt from the recipient during business hours, otherwise the following business day, provided a copy is also sent by registered to certified mail or nationally-recognized overnight courier as set forth above.

22. **Brokers.**

Seller represents and warrants to Buyer, and Buyer represents and warrants to Seller, that no broker or finder has been engaged by them, respectively, other than CBRE, Inc., representing

Seller only (“**Broker**”), in connection with any of the transactions contemplated by this Agreement, or to its knowledge is in any way connected with any of such transactions. Buyer shall indemnify, save harmless and defend Seller from any liability, cost, or expense arising out of or connected with any claim for any commission or compensation made by any person or entity claiming to have been retained or contacted by Buyer in connection with this transaction, other than as to the commission payable to Broker. Seller shall indemnify, save harmless and defend Buyer from any liability, cost, or expense arising out of or connected with any claim for any commission or compensation made by any person or entity claiming to have been retained or contacted by Seller in connection with this transaction, other than as to the commission payable to Broker. Seller agrees to pay Broker the commission due in connection with the sale of the Property in accordance with the commission agreement executed by Seller.

23. **Back-Up Offers.** During the Due Diligence Period, or until the date on which Buyer has waived all contingencies under this Agreement, Seller may accept back-up offers for the purchase of the Property, which offers shall be effective only if Buyer terminates this Agreement or if Seller terminates due to a Buyer default under this Agreement.

24. **Legal and Equitable Enforcement of this Agreement.**

24.1 **Default by Buyer.** IN THE EVENT THE CLOSING AND THE CONSUMMATION OF THE TRANSACTION HEREIN CONTEMPLATED DOES NOT OCCUR AS HEREIN PROVIDED BY REASON OF ANY DEFAULT OF BUYER, BUYER AND SELLER AGREE THAT IT WOULD BE IMPRACTICAL AND EXTREMELY DIFFICULT TO ESTIMATE THE DAMAGES SUFFERED BY SELLER AS A RESULT OF BUYER’S FAILURE TO COMPLETE THE PURCHASE OF THE PROPERTY PURSUANT TO THIS AGREEMENT, AND THAT UNDER THE CIRCUMSTANCES EXISTING AS OF THE DATE OF THIS AGREEMENT, THE LIQUIDATED DAMAGES PROVIDED FOR IN THIS SECTION REPRESENT A REASONABLE ESTIMATE OF THE DAMAGES WHICH SELLER WILL INCUR AS A RESULT OF SUCH FAILURE; PROVIDED, HOWEVER THAT THIS PROVISION WILL NOT LIMIT SELLER’S RIGHT TO RECEIVE REIMBURSEMENT FOR ATTORNEYS’ FEES IN THE EVENT BUYER WRONGFULLY REFUSES TO RELEASE THE DEPOSIT OR SUES FOR REIMBURSEMENT OF THE DEPOSIT AND SELLER BECOMES THE PREVAILING PARTY IN ANY SUCH SUIT, NOR WAIVE OR AFFECT BUYER’S INDEMNITY OBLIGATIONS AND OBLIGATIONS UNDER THIS AGREEMENT AND SELLER’S RIGHTS TO THOSE INDEMNITY AND OTHER OBLIGATIONS UNDER THIS AGREEMENT. THEREFORE, BUYER AND SELLER HEREBY AGREE THAT A REASONABLE ESTIMATE OF THE TOTAL DAMAGES THAT SELLER WOULD SUFFER IN THE EVENT THAT BUYER DEFAULTS AND FAILS TO COMPLETE THE PURCHASE OF THE PROPERTY IS AN AMOUNT EQUAL TO THE DEPOSIT (WHICH INCLUDES ANY ACCRUED INTEREST THEREON EARNED IN ESCROW). SAID AMOUNT WILL BE THE FULL, AGREED AND LIQUIDATED DAMAGES FOR THE BREACH OF THIS AGREEMENT BY BUYER. THE PAYMENT OF SUCH AMOUNT AS 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. SELLER HEREBY WAIVES THE PROVISIONS OF CALIFORNIA CIVIL

CODE SECTION 3389. UPON DEFAULT BY BUYER, THE DEPOSIT (WHICH INCLUDES ANY ACCRUED INTEREST THEREON EARNED IN ESCROW) SHALL BE RETAINED BY OR DELIVERED TO SELLER, THIS AGREEMENT WILL BE TERMINATED AND, EXCEPT FOR BUYER'S INDEMNITY OBLIGATIONS AND OBLIGATIONS UNDER ARTICLE 22 WHICH MAY BE ENFORCED BY SELLER (IN ADDITION TO COLLECTION AND RETENTION BY SELLER OF BUYER'S DEPOSIT AS PROVIDED HEREUNDER) NEITHER PARTY SHALL HAVE ANY FURTHER RIGHTS OR OBLIGATIONS HEREUNDER, EACH TO THE OTHER EXCEPT FOR THE RIGHT OF SELLER TO COLLECT SUCH LIQUIDATED DAMAGES FROM BUYER AND ESCROW HOLDER.

Buyer's Initials: AM Seller's Initials: _____

24.2 **Buyer's Remedies.** In the event the Close of Escrow and the consummation of the transaction contemplated by this Agreement do not occur by reason of default by Seller, Buyer shall elect, as its sole remedy, either to (i) terminate this Agreement by giving Seller written notice of such election on or prior to the Closing Date, in which case Buyer will be entitled to the return of its Deposit and any interest accrued thereon in Escrow and payment of its reasonable out-of-pocket expenses incurred in connection with the transaction; or (ii) enforce specific performance of this Agreement; provided, however, that Buyer's specific performance remedy set forth in this Subsection 24.2(ii) shall only be applicable if, as of the Closing Date, Buyer has performed all of its obligations to the Closing set forth in this Agreement. The foregoing remedies set forth in Subsections 24.2(i) and 24.2(ii) hereinabove are Buyer's sole and exclusive remedies with respect to Seller's default, and Buyer waives any and all other remedies as may be available at law or in equity in connection with such Seller default.

24.3 **Limitation on Liability.** Notwithstanding anything to the contrary contained herein, if Closing shall have occurred (and Buyer shall not have waived, relinquished or released any applicable rights in further limitation), the aggregate liability of Seller arising pursuant to or in connection with the representations, warranties, indemnifications, covenants or other obligations (whether express or implied) of Seller under this Agreement (or any document executed or delivered in connection herewith) (collectively, the "**Contract Liabilities**") shall not exceed three percent (3%) of the Purchase Price (the "**Claims Cap**") provided that in no event shall Seller be liable for any Contract Liabilities unless the aggregate amount of such liabilities exceeds \$75,000 (the "**Claims Floor**"), in which event Seller shall be liable for such Contract Liabilities up to the Claims Cap. No constituent partner or member in Seller, nor any person, trust or entity that becomes a constituent partner or member in Seller, nor any partner, member, manager, shareholder, director, officer, employee, beneficiary, trustee or agent of any of the foregoing, shall have any personal liability, directly or indirectly, under or in connection with this Agreement or any agreement made or entered into under or pursuant to the provisions of this Agreement, or any amendment to any of the foregoing made at any time or times, heretofore or hereafter, and Buyer and its successors and assigns and, without limitation, all other persons and entities, shall look solely to the assets of Seller for the payment of any claim or for any performance, and Buyer, on behalf of itself and its successors and assigns, hereby waives any and all such personal liability. Except as expressly set forth in this Agreement, it is expressly understood and agreed that notwithstanding any applicable law to the contrary, Seller shall not have any liability for any claim, cause of action or other liability arising out of or relating to this

CODE SECTION 3389. UPON DEFAULT BY BUYER, THE DEPOSIT (WHICH INCLUDES ANY ACCRUED INTEREST THEREON EARNED IN ESCROW) SHALL BE RETAINED BY OR DELIVERED TO SELLER, THIS AGREEMENT WILL BE TERMINATED AND, EXCEPT FOR BUYER'S INDEMNITY OBLIGATIONS AND OBLIGATIONS UNDER ARTICLE 22 WHICH MAY BE ENFORCED BY SELLER (IN ADDITION TO COLLECTION AND RETENTION BY SELLER OF BUYER'S DEPOSIT AS PROVIDED HEREUNDER) NEITHER PARTY SHALL HAVE ANY FURTHER RIGHTS OR OBLIGATIONS HEREUNDER, EACH TO THE OTHER EXCEPT FOR THE RIGHT OF SELLER TO COLLECT SUCH LIQUIDATED DAMAGES FROM BUYER AND ESCROW HOLDER.

Buyer's Initials: My Seller's Initials: bn

24.2 **Buyer's Remedies.** In the event the Close of Escrow and the consummation of the transaction contemplated by this Agreement do not occur by reason of default by Seller, Buyer shall elect, as its sole remedy, either to (i) terminate this Agreement by giving Seller written notice of such election on or prior to the Closing Date, in which case Buyer will be entitled to the return of its Deposit and any interest accrued thereon in Escrow and payment of its reasonable out-of-pocket expenses incurred in connection with the transaction; or (ii) enforce specific performance of this Agreement; provided, however, that Buyer's specific performance remedy set forth in this Subsection 24.2(ii) shall only be applicable if, as of the Closing Date, Buyer has performed all of its obligations to the Closing set forth in this Agreement. The foregoing remedies set forth in Subsections 24.2(i) and 24.2(ii) hereinabove are Buyer's sole and exclusive remedies with respect to Seller's default, and Buyer waives any and all other remedies as may be available at law or in equity in connection with such Seller default.

24.3 **Limitation on Liability.** Notwithstanding anything to the contrary contained herein, if Closing shall have occurred (and Buyer shall not have waived, relinquished or released any applicable rights in further limitation), the aggregate liability of Seller arising pursuant to or in connection with the representations, warranties, indemnifications, covenants or other obligations (whether express or implied) of Seller under this Contract (or any document executed or delivered in connection herewith) (collectively, the "**Contract Liabilities**") shall not exceed three percent (3%) of the Purchase Price (the "**Claims Cap**") provided that in no event shall Seller be liable for any Contract Liabilities unless the aggregate amount of such liabilities exceeds \$75,000 (the "**Claims Floor**"), in which event Seller shall be liable for such Contract Liabilities up to the Claims Cap. No constituent partner or member in Seller, nor any person, trust or entity that becomes a constituent partner or member in Seller, nor any partner, member, manager, shareholder, director, officer, employee, beneficiary, trustee or agent of any of the foregoing, shall have any personal liability, directly or indirectly, under or in connection with this Agreement or any agreement made or entered into under or pursuant to the provisions of this Agreement, or any amendment to any of the foregoing made at any time or times, heretofore or hereafter, and Buyer and its successors and assigns and, without limitation, all other persons and entities, shall look solely to the assets of Seller for the payment of any claim or for any performance, and Buyer, on behalf of itself and its successors and assigns, hereby waives any and all such personal liability. Except as expressly set forth in this Agreement, it is expressly understood and agreed that notwithstanding any applicable law to the contrary, Seller shall not have any liability for any claim, cause of action or other liability arising out of or relating to this

Agreement or the Property whether based on contract, common law, statute, equity or otherwise (subject, however, to Buyer's right to recover Buyer's reasonable attorneys' fees and court costs).

25. **Assignment by Buyer.**

Neither this Agreement nor Buyer's interest hereunder nor any part thereof may be assigned by Buyer or any successor-in-interest to Buyer without the prior written consent of Seller, except that Buyer may assign and delegate its rights and obligations under this Agreement to an entity controlling, controlled by or under common control with Buyer without Seller's consent. As used herein, "**control**" (and with correlative meaning, "controlled by" and "under common control with") shall mean the power to direct the management of a person or entity, directly or indirectly, whether through the ownership of voting securities, by contract, or otherwise. Any assignment or transfer made without the consent of Seller shall, at Seller's option, be voidable and constitute a material breach of this Agreement by Buyer. No assignment shall be effective against Seller unless and until Buyer delivers to Seller a written instrument duly executed and satisfactory to Seller in both form and substance, pursuant to which the assignee assumes and agrees to perform for the benefit of Seller the obligations of Buyer under this Agreement, and pursuant to which the assignee makes the warranties and representations required of Buyer under this Agreement and such other representations and warranties as Seller may reasonably require (such instrument an "**Assignment**"). Upon Seller's receipt of the Assignment, the assignee shall become the Buyer for all purposes of this Agreement except that Buyer shall not be released from any of its obligations under this Agreement.

26. **Miscellaneous.**

26.1 **Counterparts.** This Agreement may be executed in one or more counterparts, and each set of duly delivered identical counterparts which includes all signatories shall be deemed to be one original document.

26.2 **Partial Invalidity.** If any term or provision of this Agreement shall be deemed to be invalid or unenforceable to any extent, the remainder of this Agreement will not be affected thereby, and each remaining term and provision of this Agreement will be valid and be enforced to the fullest extent permitted by law.

26.3 **Possession of the Property.** Seller will deliver possession of the Property to Buyer upon the Close of Escrow, subject to the Capital One Buyout Agreement and the rights of all tenants.

26.4 **Waivers.** No waiver of any breach of any covenant or provision contained herein will be deemed a waiver of any preceding or succeeding breach thereof, or of any other covenant or provisions contained herein. No extension of time for performance of any obligation or act will be deemed an extension of the time for performance of any other obligation or act except those of the waiving party, which will be extended by a period of time equal to the period of the delay.

26.5 **Successors and Assigns.** This Agreement is binding upon and inures to the benefit of the permitted successors and assigns of the parties hereto.

26.6 **Professional Fees.** If any action be commenced (including an appeal thereof) to enforce any of the provisions of this Agreement or to enforce a judgment, whether or not such action is prosecuted to judgment (“Action”), (a) the unsuccessful party therein shall pay all costs incurred by the prevailing party therein, including reasonable attorneys’ and consultants’ fees and costs, court costs and reimbursements for any other expenses incurred in connection therewith, and (b) as a separate right, severable from any other rights set forth in this Agreement, the prevailing party therein shall be entitled to recover its reasonable attorneys’ and consultants’ fees and costs incurred in enforcing any judgment against the unsuccessful party therein, which right to recover post-judgment attorneys’ and consultants’ fees and costs shall be included in any such judgment. The right to recover post-judgment attorneys’ and consultants’ fees and costs shall (1) not be deemed waived if not included in any judgment, (2) survive the final judgment in any Action, and (3) not be deemed merged into such judgment. The rights and obligations of the parties under this Section 26.6 shall survive the termination of this Agreement.

26.7 **Entire Agreement.** This Agreement (including all Exhibits attached hereto) constitutes the entire contract between the parties hereto and may not be modified except by an instrument in writing signed by the party to be charged.

26.8 **Time of Essence.** Seller and Buyer hereby acknowledge and agree that time is strictly of the essence with respect to each and every term, condition, obligation and provision hereof. If the Closing has not occurred by the Closing Date for any reason other than a default of Seller, Seller may immediately terminate this Agreement.

26.9 **Construction.** This Agreement has been prepared by Seller and its professional advisors and reviewed by Buyer and its professional advisors. Seller and Buyer and their respective advisors believe that this Agreement is the product of all of their efforts, that it expresses their agreement and that it should not be interpreted in favor of or against either Buyer or Seller. The parties further agree that this Agreement will be construed to effectuate the normal and reasonable expectations of a sophisticated Seller and Buyer. The words “Buyer” and “Seller” as used herein shall include the plural as well as the singular. Words used in any gender include other genders. The Section headings of this Agreement are not a part of this Agreement and shall have no effect upon the construction or interpretation of any part hereof. Any deletion of language from this Agreement prior to its execution by the parties shall not be construed to raise any presumption, canon of construction or implication, including, without limitation, any implication that the parties intended thereby to state the converse of the deleted language. The words “include” or “including” or the like shall be construed as if followed by the words “without limitation”.

26.10 **Governing Law.** This Agreement shall be governed by, interpreted under, and construed and enforced in accordance with the laws of the State of California.

26.11 **Reference.** ANY CLAIMS OR DISPUTES ARISING OUT OF, OR RELATING TO THIS AGREEMENT SHALL BE RESOLVED PURSUANT TO A JUDICIAL REFERENCE PROCEEDING PURSUANT TO THE PROVISIONS OF CALIFORNIA CODE OF CIVIL PROCEDURE §§638 THROUGH 645.1, INCLUSIVE, AS MODIFIED BY THE FOLLOWING PROCEDURES AND ANY SUBSEQUENT PROVISIONS MUTUALLY AGREED UPON BY THE PARTIES, EXCEPT AS OTHERWISE SPECIFICALLY

PROVIDED HEREIN. ANY VARIATIONS FROM THE STATUTORY REFERENCE PROCEDURES SET FORTH HEREIN OR HEREAFTER MUTUALLY AGREED UPON BY THE PARTIES IN WRITING SHALL BE DEEMED TO BE A STIPULATION BY THE PARTIES TO SUCH REVISED PROCEDURES.

(a) The parties shall agree upon a single referee who shall be a retired judge who served at least five (5) years in the Courts of the State of California. Such referee shall then try all issues, whether of fact or law. If the parties are unable to agree upon a referee within ten (10) days after a written request by any party, then any party may seek appointment of a referee pursuant to California Code of Civil Procedure §§638 and 640. The Presiding Judge of the Superior Court of the Monterey (“Court”) shall appoint only one referee. The referee shall NOT have the right to convene a jury.

(b) The referee shall have the power to decide all issues of fact and law and report his/her decision thereon, and to issue all legal and equitable relief appropriate under the circumstances before him/her; however, that to the extent the referee is unable to issue and/or enforce any such legal and equitable relief, either party may petition the Court to issue and/or enforce such relief on the basis of the referee’s decision.

(c) Discovery shall be afforded to the parties in accordance with Code of Civil Procedure §§2016 et. seq. except that within thirty (30) days after the appointment of the referee, each party shall serve on each other party all documents relevant to the dispute and all documents then in its possession and control that the party intends to offer as evidence during the reference proceeding, and, notwithstanding any applicable laws to the contrary, each party shall be entitled to take a maximum of one (1) discovery deposition of each other party and three (3) non-party depositions and to propound a maximum of only 25 special interrogatories pursuant to Code of Civil Procedure §2030. Within sixty (60) days after appointment of the referee, each of the parties shall provide to the referee and to all other parties, a list of expert witnesses who will provide opinion testimony. The parties shall be entitled to depose any designated expert prior to the commencement of the hearing. The referee shall resolve any discovery disputes.

(d) Except as expressly provided herein to the contrary, the California Evidence Code rules of evidence, the California Code of Civil Procedure and the California Rules of Court shall apply to the conduct of the hearing, examination of witnesses and presentation of evidence at the trial; however, the parties may agree, or the referee may order them, to follow informal procedures for the resolution of pretrial motions and discovery disputes. The referee will schedule the reference hearing for consecutive dates, except for weekends and holidays and the hearing must commence within ninety (90) days after appointment of the referee and shall not exceed three (3) days in length without the approval of all parties. Any party desiring a stenographic record of the trial may secure a court reporter to attend the trial; provided, the requesting party notifies the other parties of the request and pays for the costs incurred for the court reporter.

(e) The referee shall report a finding and judgment, including a written statement of decision which shall be reported to the court in accordance with California Code of Civil Procedure §643 and mailed promptly to the parties within twenty (20) days after the close of testimony. Judgment may be entered on the decision of the referee in accordance with

California Code of Civil Procedure §644, and the decision may be excepted to, challenged and appealed according to law.

(f) The parties shall promptly and diligently cooperate with one another and the referee, and shall perform such acts as may be necessary to obtain a prompt and expeditious resolution of the dispute or controversy in accordance with the terms hereof.

(g) The cost of such reference proceeding, including but not limited to the referee's fees, shall initially be borne equally by the parties to the dispute or controversy. However, the prevailing party in such proceeding shall be entitled, in addition to all other costs, to recover its contribution for the cost of the reference and its reasonable attorneys' fees as items of recoverable costs.

(h) The referee (or the Court, if no referee has been appointed) will resolve all disputes concerning the interpretation of this Section, its application to disputes or procedures not specifically described herein, or the referee's powers. If any portion of this Section is declared unenforceable or becomes unenforceable because of changes in the law, the remainder of its provisions will remain fully effective. If the reference procedures of California Code of Civil Procedure Section §638 are no longer available when a dispute arises, the parties will not be obligated to pursue other forms of alternative dispute resolution but may seek relief in the Court to the same extent as if they had not entered into a reference agreement.

(i) Notwithstanding anything contrary in the foregoing, the following are expressly excluded from the reference procedures provided herein: claims, disputes, matters, proceedings and/or actions (i) relating to this Agreement for which a different or particular manner of resolution or determination is specifically set forth elsewhere in this Agreement; (ii) unrelated to this Agreement or the Property; (iii) within the jurisdiction of a probate, small claims, or bankruptcy court; (iv), and relating to orders of attachment, receivership, injunction, or other provisional remedies.

(j) BOTH PARTIES HEREBY WAIVE A JURY TRIAL OR PROCEEDING IN CONNECTION WITH ANY DISPUTE ARISING OUT OF THIS AGREEMENT, TO THE FULLEST EXTENT PERMITTED UNDER LAW.

26.12 **Confidentiality.** Without limiting Buyer's obligations pursuant to Paragraph 8.1(b), unless otherwise agreed to in writing by Seller and Buyer, each party will keep confidential all documents, financial statements, reports or other information provided to, or generated by the other party relating to the Property and will not disclose any such information to any person other than (i) those employed by Seller or Buyer; (ii) those who are actively and directly participating in the evaluation of the Property and the negotiation and execution of this Agreement or financing of the purchase of the Property; (iii) governmental, administrative, regulatory or judicial authorities in the investigation of the compliance of the Property with applicable legal requirements; and (iv) those persons to whom disclosures are required by applicable law, provided that the scope of such required disclosures does not exceed that required by such applicable law. However, Buyer expressly covenants and agrees that, except as required by law, it will not disclose any code compliance, environmental or other regulatory matters to governmental or other authorities without the express prior written approval by Seller.

The provisions of this Section 26.12 will survive the termination of this Agreement other than by Closing.

26.13 **Wear and Tear**. Buyer specifically acknowledges that Seller will continue to use the Property in the course of its business and accepts the fact that reasonable wear and tear will occur after the date of this Agreement. Buyer specifically agrees that Seller is not responsible for repairing such reasonable wear and tear and that Buyer is prohibited from raising such wear and tear as a reason for not consummating this transaction or for requesting a reduction in the Purchase Price.

26.14 **No Recordation**. No memorandum or other document relating to this Agreement shall be recorded.

26.15 **Survival**. The obligations and indemnifications contained in Articles 19, 20 and 24 shall survive the Closing. Nothing in this Section 26.15, however, shall limit the survival of any other provisions of this Agreement that are expressly stated to survive the Closing.

[Signatures on Following Page]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year hereinabove written.

“SELLER”

SCHILLING PLACE PROPERTY, LLC,
a California limited liability company

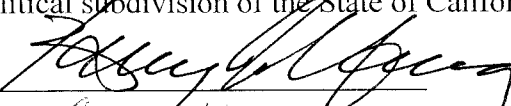
By: _____
Name: _____
Title: _____

SCHILLING PROPERTY QC, LLC,
a California limited liability company

By: _____
Name: _____
Title: _____

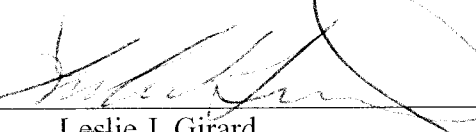
“BUYER”

COUNTY OF MONTEREY, CALIFORNIA,
a political subdivision of the State of California

By: 
Name: Benny Young
Title: County Director

APPROVED AS TO FORM:

CHARLES J. MCKEE, County Counsel


By: 
Leslie J. Girard
Chief Assistant County Counsel

[Escrow Holder Acknowledgment on Following Page]

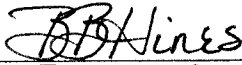
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year hereinabove written.

“SELLER”

SCHILLING PLACE PROPERTY, LLC,
a California limited liability company

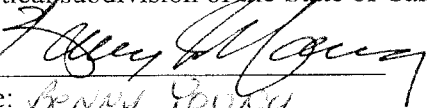
By: 
Name: Barbara B. Hines
Title: President & CEO

SCHILLING PROPERTY QC, LLC,
a California limited liability company

By: 
Name: Barbara B. Hines
Title: President & CEO

“BUYER”

COUNTY OF MONTEREY, CALIFORNIA,
a political subdivision of the State of California

By: 
Name: Benny Young
Title: RMAF Director

APPROVED AS TO FORM:

CHARLES J. MCKEE, County Counsel

By: 
Leslie J. Girard
Chief Assistant County Counsel

[Escrow Holder Acknowledgment on Following Page]

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

REAL PROPERTY IN THE CITY OF SALINAS, COUNTY OF MONTEREY, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

PARCEL I:

PARCEL A, IN THE CITY OF SALINAS, COUNTY OF MONTEREY, STATE OF CALIFORNIA, AS SHOWN ON THAT MAP FILED FEBRUARY 14, 1989 IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY IN VOLUME 17 OF PARCEL MAPS AT PAGE 164.

PARCEL II:

CERTAIN REAL PROPERTY SITUATE IN THE RANCHO LLANO DE BUENA VISTA, CITY OF SALINAS, MONTEREY COUNTY, CALIFORNIA, BEING A PORTION OF EDEN STREET AND PARCEL "A" AS SHOWN ON MAP OF TRACT NO. 896, EDEN INDUSTRIAL PARK, RECORDED IN VOLUME 14 OF CITIES AND TOWNS AT PAGE 31, RECORDS OF SAID COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE EASTERLY LINE OF EDEN STREET, A 64 FOOT WIDE CITY STREET, SAID POINT BEING ALSO ON THE WESTERLY LINE OF CALIFORNIA STATE HIGHWAY ROUTE US 101, AT A FOUND CONCRETE MONUMENT AS SHOWN ON SAID MAP; THENCE ALONG SAID LINE

1) SOUTH $24^{\circ} 47' 38''$ EAST, 905.00 FEET TO THE MOST NORTHERLY CORNER OF PARCEL A AS SHOWN ON SAID MAP; THENCE LEAVE SAID HIGHWAY LINE AND CONTINUE ALONG SAID STREET LINE, TANGENTIALLY

2) CURVING TO THE RIGHT ON A CIRCULAR ARC OF 139 FOOT RADIUS THROUGH AN ANGLE OF $22^{\circ} 59' 56''$ FOR A DISTANCE OF 55.80 FEET; THENCE LEAVE SAID STREET LINE

3) CURVING TO THE LEFT ON A CIRCULAR ARC OF 55 FOOT RADIUS (THE CENTER OF THE CIRCLE OF WHICH SAID ARC IS A PART BEARS SOUTH $28^{\circ} 15' 06''$ WEST) THROUGH AN ANGLE OF $71^{\circ} 59' 20''$ FOR A DISTANCE OF 69.10 FEET TO A POINT ON THE WESTERLY LINE OF SAID STREET; THENCE ALONG SAID WESTERLY LINE

4) CURVING TO THE LEFT ON A CIRCULAR ARC OF 75 FOOT RADIUS (THE CENTER OF THE CIRCLE OF WHICH SAID ARC IS A PART BEARS NORTH $86^{\circ} 40' 14''$ WEST) THROUGH AN ANGLE OF $28^{\circ} 07' 24''$ FOR A DISTANCE OF 36.81 FEET; THENCE TANGENTIALLY

5) NORTH $24^{\circ} 47' 38''$ WEST, 905.00 FEET; THENCE TANGENTIALLY

6) CURVING TO THE LEFT ON A CIRCULAR ARC OF 100 FOOT RADIUS THROUGH AN ANGLE OF 39° 20' 30" FOR A DISTANCE OF 68.66 FEET; THENCE LEAVE SAID WESTERLY LINE

7) CURVING TO THE LEFT ON A CIRCULAR ARC OF 55 FOOT RADIUS (THE CENTER OF THE CIRCLE OF WHICH SAID ARC IS A PART BEARS NORTH 70° 06' 18" WEST) THROUGH AN ANGLE OF 114° 09' 11" FOR A DISTANCE OF 109.58 FEET TO A POINT ON THE EASTERLY LINE OF SAID STREET; THENCE ALONG SAID LINE

8) CURVING TO THE RIGHT ON A CIRCULAR ARC OF 164 FOOT RADIUS (THE CENTER OF THE CIRCLE OF WHICH SAID ARC IS A PART BEARS SOUTH 4° 15' 29" EAST) THROUGH AN ANGLE OF 69° 27' 51" FOR A DISTANCE OF 198.83 FEET TO THE POINT OF BEGINNING.

PARCEL III:

CERTAIN REAL PROPERTY SITUATE IN THE RANCHO LLANO DE BUENA VISTA, CITY OF SALINAS, MONTEREY COUNTY, CALIFORNIA, BEING A PORTION OF EDEN STREET AND PARCEL "A" AS SHOWN ON MAP OF TRACT NO. 896, EDEN INDUSTRIAL PARK, RECORDED IN VOLUME 14 OF CITIES AND TOWNS AT PAGE 31, RECORDS OF SAID COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST NORTHERLY CORNER OF PARCEL A AS SHOWN ON SAID MAP; THENCE ALONG THE EASTERLY BOUNDARY THEREOF AND THE WESTERLY LINE OF CALIFORNIA STATE HIGHWAY ROUTE US 101

1) SOUTH 24° 47' 38" EAST, 87.37 FEET TO A POINT; THENCE LEAVE SAID BOUNDARY AND HIGHWAY LINE,

2) CURVING TO THE LEFT ON A CIRCULAR ARC OF 55 FOOT RADIUS (THE CENTER OF THE CIRCLE OF WHICH SAID ARC IS A PART BEARS SOUTH 65° 12' 22" WEST) THROUGH AN ANGLE OF 36° 57' 16" FOR A DISTANCE OF 35.47 FEET TO A POINT ON THE EASTERLY LINE OF EDEN STREET; THENCE ALONG SAID LINE

3) CURVING TO THE LEFT ON A CIRCULAR ARC OF 139 FOOT RADIUS (THE CENTER OF THE CIRCLE OF WHICH SAID ARC IS A PART BEARS SOUTH 88° 12' 18" WEST) THROUGH AN ANGLE OF 22° 59' 56" FOR A DISTANCE OF 55.30 FEET TO THE POINT BEGINNING.

PARCEL IV:

LOTS 10 AND 11 OF TRACT 896, EDEN INDUSTRIAL PARK, IN THE CITY OF SALINAS, COUNTY OF MONTEREY, STATE OF CALIFORNIA, FILED JULY 30, 1980 IN BOOK 14 OF CITIES AND TOWNS, PAGE 31 OFFICIAL RECORDS OF MONTEREY COUNTY, CALIFORNIA.

PARCEL V:

LOTS 7, 8 AND 9 AS SHOWN ON THE MAP ENTITLED TRACT 896, EDEN INDUSTRIAL PARK, IN THE CITY OF SALINAS , COUNTY OF MONTEREY, STATE OF CALIFORNIA, ACCORDING TO THE MAP FILED JULY 30, 1980 IN BOOK 14, PAGE 31 OF MAPS OF CITIES AND TOWNS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY CERTIFICATE OF COMPLIANCE RECORDED MAY 9, 2003, INSTRUMENT NO. 2003053999, OF OFFICIAL RECORDS. EXCEPTING THEREFROM ANY AND ALL WATER, BUT WITHOUT THE RIGHT OF ENTRY OR TO MAKE ANY WITHDRAWAL OF WATER WHICH WILL RESULT IN DAMAGE TO ANY BUILDING OR STRUCTURE, AS GRANTED IN THE DEED TO CALIFORNIA WATER SERVICE COMPANY, RECORDED OCTOBER 21, 1980, IN BOOK 1441 OF REELS, PAGE 576, OFFICIAL RECORDS.

APN'S:

- 177-181-014-000 (Affects: Lot 7 of Parcel V)
- 177-181-015-000 (Affects: Lot 8 of Parcel V)
- 177-181-016-000 (Affects: Lot 9 of Parcel V)
- 177-181-017-000 (Affects: 10 of Parcel IV)
- 177-181-018-000 (Affects: 11 of Parcel IV)
- 177-181-024-000 (Affects: Parcel I-III)
- 177-181-020-000 (Easement Parcel, .014 acres +/-)
- 177-134-003-000 (Pie Shaped Parcel, 3.12 acres +/-)

EXHIBIT "B"

FORM OF DEED

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

MAIL TAX STATEMENTS TO:
Same as above

(Above Space for Recorder's Use Only)

GRANT DEED

The undersigned declares that this document is recorded for the benefit of the County of Monterey and is therefore exempt from the payment of the recording fee pursuant to Government Code Section 6103 and from the payment of the documentary transfer tax pursuant to Revenue and Taxation Code Section 11922.

FOR VALUABLE CONSIDERATION, RECEIPT OF WHICH IS HEREBY
ACKNOWLEDGED, _____, a _____, hereby grants
to _____
that certain real property described on Exhibit A attached hereto (the "**Property**") in Monterey
County, State of California together with (i) all improvements owned by Grantor and located
thereon, (ii) all rights, privileges, easements and appurtenances owned by Grantor appertaining
to the Property, and (iii) all right, title and interest of Grantor (if any) in, to and under adjoining
streets, rights of way and easements:

SUBJECT TO:

All covenants, conditions, restrictions, reservations, rights, rights of way, easements,
encumbrances, liens and title matters whether or not of record or visible from an inspection of
the Property and all matters which an accurate survey of the Property would disclose.

DATED: _____, 2014

ACKNOWLEDGMENT

STATE OF CALIFORNIA)
) ss.
COUNTY OF)

On _____, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

[EXHIBIT TO FORM OF DEED]

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

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1) SOUTH 24° 47' 38" EAST, 905.00 FEET TO THE MOST NORTHERLY CORNER OF PARCEL A AS SHOWN ON SAID MAP; THENCE LEAVE SAID HIGHWAY LINE AND CONTINUE ALONG SAID STREET LINE, TANGENTIALLY

2) CURVING TO THE RIGHT ON A CIRCULAR ARC OF 139 FOOT RADIUS THROUGH AN ANGLE OF 22° 59' 56" FOR A DISTANCE OF 55.80 FEET; THENCE LEAVE SAID STREET LINE

3) CURVING TO THE LEFT ON A CIRCULAR ARC OF 55 FOOT RADIUS (THE CENTER OF THE CIRCLE OF WHICH SAID ARC IS A PART BEARS SOUTH 28° 15' 06" WEST) THROUGH AN ANGLE OF 71° 59' 20" FOR A DISTANCE OF 69.10 FEET TO A POINT ON THE WESTERLY LINE OF SAID STREET; THENCE ALONG SAID WESTERLY LINE

4) CURVING TO THE LEFT ON A CIRCULAR ARC OF 75 FOOT RADIUS (THE CENTER OF THE CIRCLE OF WHICH SAID ARC IS A PART BEARS NORTH 86° 40' 14" WEST) THROUGH AN ANGLE OF 28° 07' 24" FOR A DISTANCE OF 36.81 FEET; THENCE TANGENTIALLY

5) NORTH 24° 47' 38" WEST, 905.00 FEET; THENCE TANGENTIALLY

6) CURVING TO THE LEFT ON A CIRCULAR ARC OF 100 FOOT RADIUS THROUGH AN ANGLE OF $39^{\circ} 20' 30''$ FOR A DISTANCE OF 68.66 FEET; THENCE LEAVE SAID WESTERLY LINE

7) CURVING TO THE LEFT ON A CIRCULAR ARC OF 55 FOOT RADIUS (THE CENTER OF THE CIRCLE OF WHICH SAID ARC IS A PART BEARS NORTH $70^{\circ} 06' 18''$ WEST) THROUGH AN ANGLE OF $114^{\circ} 09' 11''$ FOR A DISTANCE OF 109.58 FEET TO A POINT ON THE EASTERLY LINE OF SAID STREET; THENCE ALONG SAID LINE

8) CURVING TO THE RIGHT ON A CIRCULAR ARC OF 164 FOOT RADIUS (THE CENTER OF THE CIRCLE OF WHICH SAID ARC IS A PART BEARS SOUTH $4^{\circ} 15' 29''$ EAST) THROUGH AN ANGLE OF $69^{\circ} 27' 51''$ FOR A DISTANCE OF 198.83 FEET TO THE POINT OF BEGINNING.

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2) CURVING TO THE LEFT ON A CIRCULAR ARC OF 55 FOOT RADIUS (THE CENTER OF THE CIRCLE OF WHICH SAID ARC IS A PART BEARS SOUTH $65^{\circ} 12' 22''$ WEST) THROUGH AN ANGLE OF $36^{\circ} 57' 16''$ FOR A DISTANCE OF 35.47 FEET TO A POINT ON THE EASTERLY LINE OF EDEN STREET; THENCE ALONG SAID LINE

3) CURVING TO THE LEFT ON A CIRCULAR ARC OF 139 FOOT RADIUS (THE CENTER OF THE CIRCLE OF WHICH SAID ARC IS A PART BEARS SOUTH $88^{\circ} 12' 18''$ WEST) THROUGH AN ANGLE OF $22^{\circ} 59' 56''$ FOR A DISTANCE OF 55.30 FEET TO THE POINT BEGINNING.

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APN'S:

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- 177-181-017-000 (Affects: 10 of Parcel IV)
- 177-181-018-000 (Affects: 11 of Parcel IV)
- 177-181-024-000 (Affects: Parcel I-III)
- 177-181-020-000 (Easement Parcel, .014 acres +/-)
- 177-134-003-000 (Pie Shaped Parcel, 3.12 acres +/-)

EXHIBIT "C"

SELLER'S FIRPTA AFFIDAVIT

CERTIFICATION OF NON-FOREIGN STATUS

Section 1445 of the Internal Revenue Code provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. To inform the transferee that withholding of tax is not required upon the disposition of a U.S. real property interest by _____, a _____ ("**Transferor**"), Transferor hereby certifies the following:

1. Transferor is not a foreign corporation, foreign partnership, foreign trust and foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations);
2. Transferor's U.S. employer identification number is [_____]; and
3. Transferor's office address is 950 South Grand Avenue, 2nd Floor South, Los Angeles, CA 90015.

Transferor understands that this certification may be disclosed to the Internal Revenue Service by transferee and that any false statement contained herein could be punished by fine, imprisonment or both.

Under penalties of perjury, I declare that I have examined this certification and to the best of my knowledge and belief it is true, correct and complete, and I further declare that I have authority to sign the document on behalf of the Transferor.

"SELLER"

[SELLER ENTITIES]

a _____

By: _____
Name: _____
Title: _____

EXHIBIT "D"

BILL OF SALE

For good and valuable consideration, the receipt of which is hereby acknowledged, _____, _____ ("**Seller**"), does hereby sell, transfer, and convey to _____ ("**Buyer**"), all of the personal property, furniture, fixtures and equipment located at the property commonly known as _____ (the "**Property**"), without warranty, express or implied, except that Seller shall warrant and defend unto Buyer and Buyer's successors and assigns title to such property against all persons claiming by, through or under Seller.

Seller further hereby covenants to execute and deliver such further instrument(s) as Buyer may hereafter reasonably request to evidence or confirm any of the sales made herein, in such form as Buyer may reasonably request and promptly upon Buyer's request therefor.

DATED: _____, 2014

"SELLER"

[SELLER ENTITIES]

_____,
a _____

By: _____

Name: _____

Title: _____

EXHIBIT "E"

ASSIGNMENT AND ASSUMPTION

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, _____, a _____, herein referred to as "**Assignor**," hereby assigns, transfers and conveys to _____ (herein referred to as "**Assignee**"), all leases (the "**Leases**") and all contracts (the "**Contracts**") affecting that certain real property in the City of _____ and County of _____, State of California (the "**Property**"), commonly known as _____, California. The Leases are more particularly described as follows:

(1) that certain Land and Building Lease by and between Schilling Place Property, LLC (successor-in-interest to Lincoln National Life Insurance Company, successor-in-interest to Alexander Hamilton Life Insurance Company of American) (as landlord) and Capital One, N.A. (together with its affiliates, "**Capital One**") (successor-in-interest to HSBC Card Services, Inc.) (as tenant) dated as of December 28, 1990, as amended by that certain First Amendment to Land and Building Lease dated as of October 6, 1995 (together with all other amendments, addenda, memoranda and writings relating thereto), for the lease of the entire building known as 1441 Schilling Place, Salinas, California, and

(2) Schilling Property QC, LLC (successor-in-interest to Salinas Development Group) (as landlord) and Capital One (successor-in-interest to HSBC Card Services, Inc., fka Household Credit Services, Inc.) (as tenant) dated as of May 5, 2003 (together with all other amendments, addenda, memoranda and writings relating thereto) for the lease of the entire buildings known as 1488 and 1494 Schilling Place, Salinas, California.

and the Contracts are more particularly described as follows:

None

Assignee hereby assumes and agrees to keep, perform and fulfill all of Assignor's obligations under the Leases and under the Contracts which are required to be kept, performed and fulfilled by Assignor thereunder, effective from and after the date on which a deed of the Property from Assignor to Assignee is recorded (the "**Closing Date**").

Assignor hereby agrees to pay for, and to indemnify Assignee against and to hold Assignee harmless from any and all liabilities, claims, causes of action or expenses (including, without limitation, reasonable attorneys' fees) with respect to the Leases which arose, accrued, or were incurred in the period prior to the Closing Date, and Assignee agrees to pay for, and to indemnify Assignor against and to hold Assignor harmless from any and all liabilities, claims, causes of action or expenses (including, without limitation, reasonable attorneys' fees) with respect to the Leases and/or the Contracts which arise, accrue or are incurred on or after the Closing Date. In the event any action, suit or other proceeding is brought against the indemnitee under the foregoing indemnification provision by reason of any claim covered by the indemnification, the indemnitor upon the request of the indemnitee, shall at the indemnitor's

expense defend such action, suit or proceeding with counsel designated by the indemnitee and reasonably satisfactory to the indemnitor.

The covenants, warranties and indemnities contained herein shall survive the closing of the purchase and sale of the Property to which this Assignment relates, and such covenants, warranties and indemnities shall not be deemed merged in the deed delivered by Assignor to Assignee.

This Assignment shall be binding on and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors in interest and assigns.

IN WITNESS WHEREOF, the undersigned have executed the within instrument as of _____.

“ASSIGNOR”

[SELLER ENTITIES]

_____,
a _____

By: _____
Name: _____
Title: _____

“ASSIGNEE”

_____,
a _____

By: _____
Name: _____
Title: _____

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