



NEW CONSTRUCTION PURCHASE AGREEMENT AND JOINT ESCROW INSTRUCTIONS (C.A.R. FORM NCPA, Revised 12/21)

Date Prepared: \_\_\_\_\_

1. OFFER:

- A. THIS IS AN OFFER FROM \_\_\_\_\_ ("Buyer").
B. FOR THE PURCHASE of the following described real estate together with the dwelling to be erected thereon and further described as: Lot/Unit No. \_\_\_\_\_, Phase No. \_\_\_\_\_, Plan/Elevation \_\_\_\_\_, Tract No. \_\_\_\_\_,
Standard Subdivision, Planned Unit Development, Condominium (which will be created in a Condominium Plan),
Recorded in Book \_\_\_\_\_ of Maps at page \_\_\_\_\_ Official Records of \_\_\_\_\_ County,
California, Address \_\_\_\_\_ ("Property").

(Postal/Mailing address may be different from city jurisdiction. Buyer is advised to investigate.)

C. THE TERMS OF THE PURCHASE ARE SPECIFIED BELOW AND ON THE FOLLOWING PAGES.

D. CLOSE OF ESCROW

- (1) Close Of Escrow shall occur at the earlier of: (i) the time specified in paragraph 4B ("Closing Date") or (ii) no later than 10 Days after Buyer receives notice from Seller of the issuance of a certificate of occupancy from the applicable local government;
(2) Seller agrees to complete construction of the Property and file a notice of completion thereon on or before 1 year after Acceptance of this Agreement, provided that Seller shall in no event be responsible for, and such 1 year time period shall be extended for, any delay due to acts of God, strike, labor dispute, or unavailability or shortage of materials necessary to complete construction of the Property.

E. Buyer and Seller are referred to herein as the "Parties." Brokers and Agents are not Parties to this Agreement.

2. OPTIONAL ITEMS:

- A. SELECTIONS: Buyer agrees to make any color and optional items selections, if applicable, from the choices offered by Seller or Seller's agents within 15 Days after such choices are offered.
B. (1) UPGRADES: If, concurrent with or subsequent to the execution of this Agreement, Buyer requests any changes or extras from Seller, an Options and Upgrades addendum (C.A.R. Form NCOU), a copy of which is provided with this Agreement, shall be executed by Buyer and Seller, and Buyer shall deposit into escrow a cash deposit against the agreed cost of such changes or extras ("Option Deposit").
(2) INCREASE IN PURCHASE PRICE: If you select options and upgrades as provided in paragraph 2B(1), the total purchase price will increase by the amount of options and upgrades selected.
(3) TREATMENT OF OPTION DEPOSIT: The Option Deposit shall be held in escrow and be paid to Seller at closing.

3. AGENCY:

A. DISCLOSURE: The Parties each acknowledge receipt of a "Disclosure Regarding Real Estate Agency Relationships" (C.A.R. Form AD) if represented by a real estate licensee. Buyer's Agent is not legally required to give to Seller's Agent the AD form Signed by Buyer.

B. CONFIRMATION: The following agency relationships are hereby confirmed for this transaction.

Seller's Brokerage Firm License Number
Is the broker of (check one): the Seller; or both the Buyer and Seller (Dual Agent).
Seller's Agent License Number
Is (check one): the Seller's Agent (Salesperson or broker associate); or both the Buyer's and Seller's Agent (Dual Agent).
Buyer's Brokerage Firm License Number
Is the broker of (check one): the Buyer; or both the Buyer and Seller (Dual Agent).
Buyer's Agent License Number
Is (check one): the Buyer's Agent (Salesperson or broker associate); or both the Buyer's and Seller's Agent (Dual Agent).

C. More than one Brokerage represents Seller, Buyer. See, Additional Broker Acknowledgement (C.A.R. Form ABA).

D. POTENTIALLY COMPETING BUYERS AND SELLERS: The Parties each acknowledge receipt of a "Possible Representation of More than One Buyer or Seller - Disclosure and Consent" (C.A.R. Form PRBS).

E. (If checked) REFERRAL LICENSEE: \_\_\_\_\_ (print Firm Name) is a Referral Licensee only and shall be compensated \$ \_\_\_\_\_ or \_\_\_\_\_ % of the Purchase Price. Buyer and Seller acknowledge that Referral Licensee has merely introduced Buyer to the Property and does not represent Buyer or Seller in this transaction.



Property Address: \_\_\_\_\_ Date: \_\_\_\_\_

**4. TERMS OF PURCHASE AND ALLOCATION OF COSTS:** The items in this paragraph are contractual terms of the Agreement. Referenced paragraphs provide further explanation. This form is 18 pages. The Parties are advised to read all 18 pages.

	Paragraph #	Paragraph Title or Contract Term	Terms and Conditions	Additional Terms
A	6	Purchase Price	\$ _____ (excluding options and upgrades)	<input type="checkbox"/> All Cash
B		Close Of Escrow (COE)	____ Days after Acceptance OR on _____ (date) (mm/dd/yyyy)	
C	45	Expiration of Offer	3 calendar days after all Buyer Signature(s) or _____ (date) at 5PM or <input type="checkbox"/> AM/ <input type="checkbox"/> PM	
D(1)	6A(1)	Initial Deposit Amount	\$ _____ (____% of purchase price) (% number above is for calculation purposes and is not a contractual term)	Delivered to Escrow (or <input type="checkbox"/> Seller) within 3 (or _____) business days after Acceptance by wire transfer OR <input type="checkbox"/> Personal Check OR <input type="checkbox"/> _____
D(2)	6A(2)	<input type="checkbox"/> Increased Deposit (Money placed into escrow after the initial deposit. Use form DID at time increased deposit is made.)	\$ _____ (____% of purchase price) (% number above is for calculation purposes and is not a contractual term)	Upon removal of all contingencies OR <input type="checkbox"/> _____ (date) OR <input type="checkbox"/> _____
D(3)	2, 7A(4)	<input type="checkbox"/> Option and Upgrade Deposit (Money placed into escrow for the purchase of optional or upgraded items concurrent with this contract.)	\$ _____	Options and Upgrades purchased after execution of this Agreement may alter Purchase Price.
E(1)	6C(1)	Loan Amount(s): First Interest Rate Points If FHA or VA checked, Deliver list of lender required repairs	\$ _____ (____% of purchase price) Fixed rate or <input type="checkbox"/> Initial adjustable rate not to exceed _____% Buyer to pay zero points or up to _____% of the loan amount 17 (or _____) Days after Acceptance	Conventional or, if checked, <input type="checkbox"/> FHA <input type="checkbox"/> VA (CAR Forms FVAC, HID attached) <input type="checkbox"/> Seller Financing <input type="checkbox"/> Other: _____
E(2)	6C(2)	Additional Financed Amount Interest Rate Points	\$ _____ (____% of purchase price) Fixed rate or <input type="checkbox"/> Initial adjustable rate not to exceed _____% Buyer to pay zero points or up to _____% of the loan amount	Conventional or, if checked, <input type="checkbox"/> Seller Financing <input type="checkbox"/> Other: _____
E(3)	8A	Occupancy Type	Primary, or if checked, <input type="checkbox"/> Secondary <input type="checkbox"/> Investment	
F	6D	Balance of Down Payment	\$ _____	
<b>PURCHASE PRICE TOTAL</b>			\$ _____	
G(1)	6E	Seller Credit, if any, to Buyer	<input type="checkbox"/> \$ _____ (____% of purchase price) (% number above is for calculation purposes and is not a contractual term)	Seller credit to be applied to closing costs OR <input type="checkbox"/> Other: _____
G(2)	<b>ADDITIONAL FINANCE TERMS:</b> _____			
H(1)	6B	Verification of All Cash (sufficient funds)	Attached to the offer or <input type="checkbox"/> 3 (or _____) Days after Acceptance	
H(2)	7A	Verification of Down Payment and Closing Costs	Attached to the offer or <input type="checkbox"/> 3 (or _____) Days after Acceptance	
H(3)	7B	Verification of Loan Application	Attached to the offer or <input type="checkbox"/> 3 (or _____) Days after Acceptance	<input type="checkbox"/> Prequalification <input type="checkbox"/> Preapproval <input type="checkbox"/> Fully underwritten preapproval
I	<b>Intentionally Left Blank</b>			
J	12	Public Report Status	<input type="checkbox"/> Final Public Report <input type="checkbox"/> No Public Report Required <input type="checkbox"/> Conditional Public Report <input type="checkbox"/> Amended Public Report	If Conditional Public Report is checked: Final Public Report shall be issued within <input type="checkbox"/> 6 months or <input type="checkbox"/> 30 months of the date of issuance of the Conditional Public Report.
	Paragraph #	Paragraph Title or Contract Term	Terms and Conditions	
K	19	Final Verification of Condition	5 (or _____) Days prior to COE	
L	26	Assignment Request	17 (or _____) Days after Acceptance	



Property Address: \_\_\_\_\_

Date: \_\_\_\_\_

M	9	CONTINGENCIES	TIME TO REMOVE CONTINGENCIES	CONTINGENCY REMOVED
M(1)	9A	Loan(s)	17 (or _____) Days after Acceptance	<input type="checkbox"/> No loan contingency
M(2)	9B, 15	Investigation of Property	17 (or _____) Days after Acceptance	<b>REMOVAL OR WAIVER OF CONTINGENCY:</b> Any contingency in M(1)-M(7) may be removed or waived by checking the applicable box above or attaching a Contingency Removal (C.A.R. Form CR) and checking the applicable box therein. Removal or Waiver at time of offer is against Agent advice. See paragraph 9H.  <input type="checkbox"/> CR attached
M(3)	9C, 14A	Review of Seller Documents	17 (or _____) Days after Acceptance, or 5 Days after receipt, whichever is later	
M(4)	3J, 12	Review of Public Report	17 (or _____) Days after Acceptance or 5 Days after receipt, whichever is later	
M(5)	9D, 12	Preliminary ("Title") Report	17 (or _____) Days after Acceptance or 5 Days after receipt, whichever is later	
M(6)	9F, 13F	Common Interest Disclosures required by Civil Code § 4525 or this Agreement	17 (or _____) Days after Acceptance, or 5 Days after receipt, whichever is later	
M(7)	9G, 10C	Review of leased or liened items (Such as for solar panels or propane tanks or PACE or HERO liens)	17 (or _____) Days after Acceptance, or 5 Days after receipt, whichever is later	
		<b>Possession</b>	<b>Time for Performance</b>	
N		Delivery of Possession	Upon notice of recordation On COE date	Property shall be delivered vacant unless Otherwise Agreed.
<b>O Intentionally Left Blank</b>				
		<b>Documents/Fees/Compliance</b>	<b>Time for Performance</b>	
P(1)	18A	Seller Delivery of Documents	7 (or _____) Days after Acceptance	
P(2)	22C	Sign and return Escrow Holder General Provisions, Supplemental Instructions	5 (or _____) Days after receipt	
P(3)	13F(2)	Time to pay fees for ordering HOA Documents	3 (or _____) Days after Acceptance	
<b>Q Allocation of Costs</b>				
	<b>Paragraph #</b>	<b>Item Description</b>	<b>Who Pays</b> (if Both is checked, cost to be split equally unless Otherwise Agreed)	<b>Additional Terms</b>
Q(1)	13A, 13B	Natural Hazard Zone Disclosure Report, including tax information	<input type="checkbox"/> Buyer <input type="checkbox"/> Seller <input type="checkbox"/> Both _____	<input type="checkbox"/> Environmental <input type="checkbox"/> Other _____ <input type="checkbox"/> Provided by: _____
Q(2)	22C	Escrow Fees	<input type="checkbox"/> Buyer <input type="checkbox"/> Seller <input type="checkbox"/> Both _____ <input type="checkbox"/> Each to pay their own fees	Escrow Holder: _____
Q(3)	17	Owner's title insurance policy	<input type="checkbox"/> Buyer <input type="checkbox"/> Seller <input type="checkbox"/> Both _____	Title Company (If different from Escrow Holder): _____
Q(4)		Buyer's Lender title insurance policy	Buyer	Unless Otherwise Agreed, Buyer shall purchase any title insurance policy insuring Buyer's lender.
Q(5)		County transfer tax, fees	<input type="checkbox"/> Buyer <input type="checkbox"/> Seller <input type="checkbox"/> Both _____	
Q(6)		City transfer tax, fees	<input type="checkbox"/> Buyer <input type="checkbox"/> Seller <input type="checkbox"/> Both _____	
Q(7)	13F(2)	HOA fee for preparing disclosures	Seller	
Q(8)		HOA certification fee	Buyer	
Q(9)		HOA transfer fees	<input type="checkbox"/> Buyer <input type="checkbox"/> Seller <input type="checkbox"/> Both _____	Unless Otherwise Agreed, Seller shall pay for separate HOA move-out fee and Buyer shall pay for separate move-in fee. Applies if separately billed or itemized with cost in transfer fee.
	<b>Paragraph #</b>	<b>Item Description</b>	<b>Who Pays</b> (if Both is checked, cost to be split equally unless Otherwise Agreed)	
Q(10)		Termite pre-spray or treatment	<input type="checkbox"/> Buyer <input type="checkbox"/> Seller <input type="checkbox"/> Both _____	
Q(11)		_____ fees or costs	<input type="checkbox"/> Buyer <input type="checkbox"/> Seller <input type="checkbox"/> Both _____	
Q(12)		_____ fees or costs	<input type="checkbox"/> Buyer <input type="checkbox"/> Seller <input type="checkbox"/> Both _____	
Q(13)		_____ Report	<input type="checkbox"/> Buyer <input type="checkbox"/> Seller <input type="checkbox"/> Both _____	
Q(14)		_____ Report	<input type="checkbox"/> Buyer <input type="checkbox"/> Seller <input type="checkbox"/> Both _____	



Property Address: \_\_\_\_\_ Date: \_\_\_\_\_

<b>R</b>	15	<b>INSULATION INFORMATION:</b> Exterior Walls: Type _____ Thickness _____ R-Value _____ Ceilings: Type _____ Thickness _____ R-Value _____ Interior Walls: Type _____ Thickness _____ R-Value _____ Other: _____: Type _____ Thickness _____ R-Value _____
<b>S</b>	41	<b>SELLER ESTIMATED CHARGES:</b> Credit Reports _____ Preliminary Title Reports _____ Escrow Services _____ Appraisals _____ Loan Processing Fees _____
<b>T</b>	36	<b>WARRANTY BEING PROVIDED:</b> Standard Warranty or <input type="checkbox"/> Seller's Limited Warranty
<b>U</b>	<b>OTHER TERMS:</b> Other terms and conditions are void to the extent that they impair or limit the rights or remedies reserved to Buyer elsewhere in this Agreement. <b>Note to Seller: For property sold subject to a public report, you must submit to, and have approval for use from, the DRE for any addenda form(s) you intend to attach to this Agreement.</b> _____ _____	

**5. PROPERTY ADVISORIES AND DISCLOSURES:** (check all that apply)

**A. BUYER AND SELLER ADVISORIES:** (Note: All advisories below are provided for reference purposes only and are not intended to be BUYER AND SELLER ADVISORIES incorporated into this Agreement.)

- Buyer's Inspection Advisory (C.A.R. Form BIA)
- Wire Fraud Advisory (C.A.R. Form WFA)
- Fair Housing and Discrimination Advisory (C.A.R. Form FHDA)
- Cal. Consumer Privacy Act Advisory (C.A.R. Form CCPA)  
(Parties may also receive a privacy disclosure from their own Agent.)
- Wildfire Disaster Advisory (C.A.R. Form W DFA)
- Trust Advisory (C.A.R. Form TA)
- REO Advisory (C.A.R. Form REO)
- Other: \_\_\_\_\_
- Statewide Buyer and Seller Advisory (C.A.R. Form SBSA)
- Short Sale Information and Advisory (C.A.R. Form SSIA)
- Probate Advisory (C.A.R. Form PA)
- Other \_\_\_\_\_

**B. ATTACHED DISCLOSURES:**

- (1) If checked, Buyer acknowledges receipt of the following disclosures:
- Public Report
  - Conditional Public Report
  - Assumed Financing Addendum (C.A.R. Form AFA)
  - Model Plan/Property Description
  - Zone Report
  - Site Report
  - Bonded Debt
  - Property Disclosure Statement
  - Seller's Warranty
  - Notice of Special Tax
  - HOA Documents
  - Utility Disclosures
  - Smoke Detector
  - Water Heater
  - Transportation Corridors
  - Newly converted condominium
  - Industrial, Commercial, Airport Zone
  - DRE 2790.9 (for properties for completed or occupied more than 3 years prior to a public report)
  - \_\_\_\_\_
- (2) **ADDITIONAL DISCLOSURES:** Seller shall provide Buyer with the following additional disclosures: \_\_\_\_\_

**6. ADDITIONAL TERMS AFFECTING PURCHASE PRICE:** Buyer represents that funds will be good when deposited with Escrow Holder.

**A. DEPOSIT:**

- (1) **INITIAL DEPOSIT:** Buyer shall deliver deposit directly to the party selected in paragraph 4D(1). If being delivered to Seller, Seller must have obtained a bond or bonds meeting the requirements of B&P Code §§ 11013.2(c) or 11013.4(b) or (c), and DRE Regulation 2791.2. If Seller has not obtained such bond(s), then deposit shall be delivered directly to Escrow. **Note to Seller: If the purchase agreement is signed under the authority of a conditional Public Report, all funds must be impounded and held in a neutral escrow depository per B&P Code §§ 11013.4(a) or 11013.2(a).**
- (2) **INCREASED DEPOSIT:** Increased deposit to be delivered to Escrow Holder in the same manner as the Initial Deposit. If the Parties agree to liquidated damages in this Agreement, they also agree to incorporate the increased deposit into the liquidated damages amount by signing a new liquidated damages clause (C.A.R. Form DID) at the time the increased deposit is delivered to Escrow Holder.
- (3) **OPTION DEPOSIT:** Option deposit to be delivered to Escrow Holder in the same manner and subject to the same terms as the Initial Deposit paragraph 6A(1) and subject to the terms of the Options and Upgrades Addendum (C.A.R. Form NCOU).
- (4) **RETENTION OF DEPOSIT:** Paragraph 42, if initialed by all Parties or otherwise incorporated into this Agreement, and if applicable an Options and Upgrade Addendum (C.A.R. Form NCOU), specifies a remedy for Buyer's default. Buyer and Seller are advised to consult with a qualified California real estate attorney before adding any other clause specifying a remedy (such as release or forfeiture of deposit or making a deposit non-refundable) for failure of Buyer to complete the purchase. Any such clause shall be deemed invalid unless the clause independently satisfies the statutory liquidated damages requirements set forth in the Civil Code.

**B. ALL CASH OFFER:** If an all cash offer is specified in paragraph 4A, no loan is needed to purchase the Property. This Agreement is NOT contingent on Buyer obtaining a loan. Buyer shall, within the time specified in paragraph 4H(1), Deliver written verification of funds sufficient for the purchase price and closing costs.

**C. LOAN(S):**

- (1) **FIRST LOAN:** This loan will provide for conventional financing UNLESS FHA, VA, Seller Financing (C.A.R. Form SFA), or Other is checked in paragraph 4E(1).
- (2) **ADDITIONAL FINANCED AMOUNT:** If an additional financed amount is specified in paragraph 4E(2), that amount will provide for conventional financing UNLESS Seller Financing (C.A.R. Form SFA), or Other is checked in paragraph 4E(2).
- (3) **BUYER'S LOAN STATUS:** Buyer authorizes Seller and Seller's Authorized Agent to contact Buyer's lender(s) to determine the status of any Buyer's loan specified in paragraph 4E, or any alternate loan Buyer pursues, whether or not a contingency of this Agreement. If the contact information for Buyer's lender(s) is different from that provided under the terms of paragraph 7B, Buyer shall Deliver the updated contact information within 1 Day of Seller's request.



Property Address: \_\_\_\_\_

Date: \_\_\_\_\_

(4) **FHA/VA: If FHA or VA is checked in paragraph 4E(1)**, a FHA/VA amendatory clause (C.A.R. Form FVAC) shall be incorporated and Signed by all Parties. Buyer shall, within the time specified in **paragraph 4E(1)**, Deliver to Seller written notice (C.A.R. Form RR or AEA) (i) of any lender requirements that Buyer requests Seller to pay for or otherwise correct or (ii) that there are no lender requirements. Notwithstanding Seller's agreement that Buyer may obtain FHA or VA financing, Seller has no obligation to pay or satisfy any or all lender requirements unless agreed in writing.

**D. BALANCE OF PURCHASE PRICE (DOWN PAYMENT) (including all-cash funds)** to be deposited with Escrow Holder pursuant to Escrow Holder instructions.

**E. LIMITS ON CREDITS TO BUYER:** Any credit to Buyer, from any source, for closing or other costs that is agreed to by the Parties ("Contractual Credit") shall be disclosed to Buyer's lender, if any, and made at Close Of Escrow. If the total credit allowed by Buyer's lender ("Lender Allowable Credit") is less than the Contractual Credit, then (i) the Contractual Credit from Seller shall be reduced to the Lender Allowable Credit, and (ii) in the absence of a separate written agreement between the Parties, there shall be no automatic adjustment to the purchase price to make up for the difference between the Contractual Credit and the Lender Allowable Credit.

**7. ADDITIONAL FINANCING TERMS:**

**A. VERIFICATION OF DOWN PAYMENT AND CLOSING COSTS:** Written verification of Buyer's down payment and closing costs may be made by Buyer or Buyer's lender or loan broker pursuant to **paragraph 7B**.

**B. VERIFICATION OF LOAN APPLICATIONS:** Buyer shall Deliver to Seller, within the time specified in **paragraph 4H(3)** a letter from Buyer's lender or loan broker stating that, based on a review of Buyer's written application and credit report, Buyer is prequalified or preapproved for any NEW loan specified in **paragraph 4E**. If any loan specified in **paragraph 4E** is an adjustable rate loan, the prequalification or preapproval letter shall be based on the qualifying rate, not the initial loan rate.

**C. BUYER STATED FINANCING:** Seller is relying on Buyer's representation of the type of financing specified (including, but not limited to, as applicable, all cash, amount of down payment, or contingent or non-contingent loan). Seller has agreed to a specific closing date, purchase price, and to sell to Buyer in reliance on Buyer's specified financing. Buyer shall pursue the financing specified in this Agreement, even if Buyer also elects to pursue an alternative form of financing. Seller has no obligation to cooperate with Buyer's efforts to obtain any financing other than that specified in this Agreement but shall not interfere with closing at the purchase price on the COE date (**paragraph 4B**) even if based upon alternate financing. Buyer's inability to obtain alternate financing does not excuse Buyer from the obligation to purchase the Property and close escrow as specified in this Agreement.

**8. CLOSING AND POSSESSION:**

**A. OCCUPANCY:** Buyer intends to occupy the Property as indicated in **paragraph 4E(3)**. Occupancy may impact available financing.

**B. CONDITION OF PROPERTY ON CLOSING:**

(1) Seller agrees to complete, in a good workmanlike manner, the improvements upon the Property, and shall furnish all labor and materials. Such improvements shall be constructed substantially in conformance with the plans and specifications on file with, and approved by, the appropriate governmental authorities.

(2) All debris and personal property not included in the sale shall be removed by Close Of Escrow.

(3) No custom work may be performed by Buyer on the Property until after the Close Of Escrow.

**C. CHANGES IN CONSTRUCTION FROM MODEL:** The model plan or property description represents the intended proposal and should indicate items included in the purchase. Buyer acknowledges that Seller's models or descriptions may not reflect exactly the Property which could be due to changes in design and components made after the construction of the models. Buyer also acknowledges that Seller reserve the right to make changes mandated by the building inspectors or other governmental Uniform Building Code enforcement officials, and that Buyer's consent shall be required only if such changes are material or substantial in nature. If Buyer does not consent, Buyer shall have the right to cancel this Agreement in writing and to recover all deposits paid. Acceptance of title by Buyer at Close Of Escrow shall satisfy all consent requirements.

**D. At Close Of Escrow:** (i) Seller assigns to Buyer any assignable warranty rights for items included in the sale; and (ii) Seller shall Deliver to Buyer available Copies of any such warranties. Agents cannot and will not determine the assignability of any warranties.

**E. Seller shall, on Close Of Escrow unless Otherwise Agreed and even if Seller remains in possession, provide keys, passwords, codes and/or means to operate all locks, mailboxes, security systems, alarms, home automation systems, intranet and Internet-connected devices included in the purchase price, garage door openers, and all items included in this Agreement. If the Property is a condominium or located in a common interest development, Seller shall be responsible for securing or providing any such items for Association amenities, facilities, and access. Buyer may be required to pay a deposit to the Homeowners' Association ("HOA") to obtain keys to accessible HOA facilities.**

**9. CONTINGENCIES AND REMOVAL OF CONTINGENCIES:**

**A. LOAN(S):**

(1) This Agreement is, **unless otherwise specified in paragraph 4M(1) or an attached CR form**, contingent upon Buyer obtaining the loan(s) specified. If contingent, Buyer shall act diligently and in good faith to obtain the designated loan(s). **If there is no appraisal contingency or the appraisal contingency has been waived or removed, then failure of the Property to appraise at the purchase price does not entitle Buyer to exercise the cancellation right pursuant to the loan contingency if Buyer is otherwise qualified for the specified loan and Buyer is able to satisfy lender's non-appraisal conditions for closing the loan.**

(2) Buyer is advised to investigate the insurability of the Property as early as possible, as this may be a requirement for lending. Buyer's ability to obtain insurance for the Property, including fire insurance, is part of Buyer's Investigation of Property contingency. Failure of Buyer to obtain insurance may justify cancellation based on the Investigation contingency but not the loan contingency.

(3) Buyer's contractual obligations regarding deposit, balance of down payment and closing costs **are not contingencies** of this Agreement, unless Otherwise Agreed.

(4) **NO LOAN CONTINGENCY:** If "No loan contingency" is checked in **paragraph 4M(1)**, obtaining any loan specified is NOT a contingency of this Agreement. If Buyer does not obtain the loan specified, and as a result is unable to purchase the Property, Seller may be entitled to Buyer's deposit or other legal remedies.

**B. INVESTIGATION OF PROPERTY:** This Agreement is, as specified in **paragraph 4M(2)**, contingent upon Buyer's acceptance of the condition of, and any other matter affecting, the Property.

**C. REVIEW OF SELLER DOCUMENTS:** This Agreement is, as specified in **paragraph 4M(4)**, contingent upon Buyer's review of Seller's documents required in **paragraph 18A**.

**D. REVIEW OF PUBLIC REPORT:** This Agreement is, as specified in **paragraph 4M(4)**, contingent upon Buyer's review of the Public Report specified in **paragraph 3J**.



**E. TITLE:**

- (1) This Agreement is, as specified in **paragraph 4M(5)**, contingent upon Buyer’s ability to obtain the title policy provided for in **paragraph 17G** and on Buyer’s review of a current Preliminary Report and items that are disclosed or observable even if not on record or not specified in the Preliminary Report, and satisfying Buyer regarding the current status of title. Buyer is advised to review all underlying documents and other matters affecting title, including, but not limited to, any documents or deeds referenced in the Preliminary Report and any plotted easements.
- (2) Buyer has **5 Days** after receipt to review a revised Preliminary Report, if any, furnished by the Title Company and cancel the transaction if the revised Preliminary Report reveals material or substantial deviations from a previously provided Preliminary Report.

**F. CONDOMINIUM/PLANNED DEVELOPMENT DISCLOSURES (IF APPLICABLE):** This Agreement is, as specified in **paragraph 4M(6)**, contingent upon Buyer’s review of Common Interest Disclosures required by Civil Code § 4525 and under **paragraph 13H** (“CI Disclosures”).

**G. BUYER REVIEW OF LEASED OR LIENED ITEMS CONTINGENCY:** Buyer’s review of and ability and willingness to assume any lease, maintenance agreement or other ongoing financial obligation, or to accept the Property subject to any lien, disclosed pursuant to **paragraph 10C**, is, as specified in **paragraph 4M(7)**, a contingency of this Agreement. Any assumption of the lease shall not require any financial obligation or contribution by Seller. Seller, after first Delivering a Notice to Buyer to Perform, may cancel this Agreement if Buyer, by the time specified in **paragraph 4M(7)**, refuses to enter into any necessary written agreements to accept responsibility for all obligations of Seller-disclosed leased or liened items.

**H. REMOVAL OR WAIVER OF CONTINGENCIES WITH OFFER:** Buyer shall have no obligation to remove a contractual contingency unless Seller has provided all required documents, reports, disclosures, and information pertaining to that contingency. If Buyer does remove a contingency without first receiving all required information from Seller, Buyer is relinquishing any contractual rights that apply to that contingency. If Buyer removes or waives any contingencies without an adequate understanding of the Property’s condition or Buyer’s ability to purchase, Buyer is acting against the advice of Agent.

**I. REMOVAL OF CONTINGENCY OR CANCELLATION:**

- (1) For any contingency specified in **paragraph 4M or 9**, Buyer shall, within the applicable period specified, remove the contingency or cancel this Agreement.
- (2) For the contingencies for review of Seller Documents, **Public Report**, Preliminary Report, and Condominium/Planned Development Disclosures, Buyer shall, within the time specified in **paragraph 4M or 5 Days** after receipt of Seller Documents or CI Disclosures, whichever occurs later, remove the applicable contingency in writing or cancel this Agreement.
- (3) If Buyer does not remove a contingency within the time specified, Seller, after first giving Buyer a Notice to Buyer to Perform (C.A.R. Form NBP), shall have the right to cancel this Agreement.

**10. ITEMS INCLUDED IN AND EXCLUDED FROM SALE:**

**A. NOTE TO BUYER AND SELLER:** Items listed as included or excluded in the Multiple Listing Service (MLS), flyers, marketing materials, or disclosures are NOT included in the purchase price or excluded from the sale unless specified in this **Agreement, the model plan/property description**, or as Otherwise Agreed. Any items included herein are components of the home and are not intended to affect the price. All items are transferred without Seller warranty.

**B. ITEMS INCLUDED IN SALE:** Items included are those specifically indicated in this Agreement, the model plan/property description, or as Otherwise Agreed.

**C. LEASED OR LIENED ITEMS AND SYSTEMS:** Seller, within the time specified in **paragraph 4P(1)**, shall (i) disclose to Buyer if any item or system specified in this Agreement or otherwise included in the sale is leased, or not owned by Seller, or is subject to any maintenance or other ongoing financial obligation, or specifically subject to a lien or other encumbrance or loan, and (ii) Deliver to Buyer all written materials (such as lease, warranty, financing, etc.) concerning any such item.

**11. ALLOCATION OF COSTS FOR INSPECTIONS, REPORTS AND CERTIFICATES:** Paragraph 4Q only determines who is to pay for the inspection, test, certificate or service (“Report”) mentioned; it does not determine who is to pay for any work recommended or identified in the Report. Agreements for payment of required work should be specified elsewhere in **paragraph 4Q, or 4U, or in a separate agreement (such as C.A.R. Forms RR, RRRR, ADM or AEA).**

**12. PUBLIC REPORTS:** The following information describes the current status of the public report process specified in **paragraph 4J.**

**A. FINAL PUBLIC REPORT:** A public report is required to be delivered to Buyer prior to the execution of this Agreement.

**B. NO PUBLIC REPORT REQUIRED:** No public report is required.

**C. CONDITIONAL PUBLIC REPORT:** If the Property is subject to a Conditional Public Report under the B&P Code, escrow will not close, funds will not be released from the escrow, and any interest contracted for and the subject of the escrow will not be conveyed until a current Final Public Report is delivered to Buyer. Furthermore, the entire sum of money paid or advanced by Buyer shall be returned to Buyer under B&P Code § 11013.4(a) or 11013.2(a) if (i) the Final Public Report has not been issued within time specified in **paragraph 4J.** Buyer has the ability to cancel the Agreement if the Final Public Report has not been issued unless a conditional public report is renewed for another 6 months, or (ii) the Buyer is dissatisfied with the Final Public Report because of a change pursuant to B&P Code § 11012.

**D. AMENDED PUBLIC REPORT:** An amended public report is required to be delivered to Buyer prior to execution of this Agreement.

**13. DISCLOSURES:**

**A. STATUTORY DISCLOSURES WHEN NO PUBLIC REPORT IS REQUIRED:**

**(1) TDS, NHD, AND OTHER STATUTORY AND SUPPLEMENTAL DISCLOSURES:**

- (A) Seller shall, within the time specified in **paragraph 4P(1)**, Deliver to Buyer: unless exempt, fully completed disclosures or notices required by §§ 1102 et. seq. and 1103 et. seq. of the Civil Code (“Statutory Disclosures”). Statutory Disclosures include, but are not limited to, a Real Estate Transfer Disclosure Statement (C.A.R. Form TDS), Natural Hazard Disclosure Statement (“NHD”), notice or actual knowledge of release of illegal controlled substance, notice of special tax and/or assessments (or, if allowed, substantially equivalent notice regarding the Mello-Roos Community Facilities Act of 1982 and Improvement Bond Act of 1915) and, if Seller has actual knowledge, of industrial use and military ordnance location (C.A.R. Form SPQ or ESD), and, if the Property is in a high or very high fire hazard severity area, the information, notices, documentation, and agreements required by §§ 1102.6(f) and 1102.19 of the Civil Code (C.A.R. Form FHDS).



Property Address: \_\_\_\_\_

Date: \_\_\_\_\_

(B) The Real Estate Transfer Disclosure Statement required by this paragraph is considered fully completed if Seller has completed the section titled Coordination with Other Disclosure Forms by checking a box (Section I), and Seller has completed and answered all questions and Signed the Seller's Information section (Section II) and the Seller's Agent, if any, has completed and Signed the Seller's Agent's section (Section III), or, if applicable, an Agent Visual Inspection Disclosure (C.A.R. Form AVID). Section V acknowledgment of receipt of a Copy of the TDS shall be Signed after all previous sections, if applicable, have been completed. Nothing stated herein relieves a Buyer's Agent, if any, from the obligation to (i) conduct a reasonably competent and diligent visual inspection of the accessible areas of the Property and disclose, on Section IV of the TDS, or an AVID, material facts affecting the value or desirability of the Property that were or should have been revealed by such an inspection or (ii) complete any sections on all disclosures required to be completed by Buyer's Agent.

(C) Seller shall, within the time specified in **paragraph 4P(1)**, provide "Supplemental Disclosures" as follows: (i) unless exempt from the obligation to provide a TDS, complete a Seller Property Questionnaire (C.A.R. Form SPQ) by answering all questions and Signing and Delivering a Copy to Buyer; (ii) if exempt from the obligation to provide a TDS, complete an Exempt Seller Disclosure (C.A.R. Form ESD) by answering all questions and Signing and Delivering a Copy to Buyer.

(D) In the event Seller or Seller's Agent, prior to Close Of Escrow, becomes aware of adverse conditions materially affecting the Property, or any material inaccuracy in disclosures, information or representations previously provided to Buyer under this paragraph, Seller shall, in writing, promptly provide a subsequent or amended TDS, Seller Property Questionnaire or other document, in writing, covering those items. Any such document shall be deemed an amendment to the TDS or SPQ. **However, a subsequent or amended disclosure shall not be required for conditions and material inaccuracies of which Buyer is otherwise aware, or which are discovered by Buyer or disclosed in reports or documents provided to or ordered and paid for by Buyer.**

(2) **DEFENSIBLE SPACE DISCLOSURE AND ADDENDUM:** For any transaction in which a TDS is required and the property is located in a high or very high fire hazard severity zone, Seller shall, within the time specified in **paragraph 4P(1)**, Deliver to Buyer (i) a disclosure of whether the Property is in compliance with any applicable defensible space laws designed to protect a structure on the Property from fire; and (ii) an addendum allocating responsibility for compliance with any such defensible space law (C.A.R. Form FHDS).

(3) **WAIVER PROHIBITED:** Waiver of Statutory and other Disclosures in **paragraph 13** are prohibited by Law.

(4) **RETURN OF SIGNED COPIES:** Buyer shall, within the time specified in **paragraph 4M(3) OR 5 Days** after Delivery of any disclosures specified in **paragraph 13** and defensible space addendum in **paragraph 13A(2)**, whichever is later, return Signed Copies of the disclosures, and if applicable, addendum, to Seller.

(5) **TERMINATION RIGHTS:**

(A) **Statutory and Other Disclosures:** If any disclosure specified in **paragraphs 11A, B, or C**, or subsequent or amended disclosure to those just specified, is Delivered to Buyer after the offer is Signed, Buyer shall have the right to terminate this Agreement within **3 Days** after Delivery in person, or **5 Days** after Delivery by deposit in the mail, or by an electronic record or email satisfying the Uniform Electronic Transactions Act (UETA), by giving written notice of rescission to Seller or Seller's Authorized Agent. If Buyer does not rescind within this time period, Buyer has been deemed to have approved the disclosure and shall not have the right to cancel.

(B) **Defensible Space Compliance:** If, by the time specified in **paragraph 13A(4)**, Buyer does not agree to the terms regarding defensible space compliance Delivered by Seller, as indicated by mutual signatures on the FHDS, then Seller, after first Delivering a Notice to Buyer to Perform, may cancel this Agreement.

**B. NATURAL HAZARD ZONES:** If a **Natural Hazard Disclosure Statement** is not required under **paragraph 13A(1)(A)**, Seller shall, within the time specified in **paragraph 4P(1)**, disclose if Property is located in any of the following: **Special Flood Hazard Areas; Potential Flooding (inundation) Areas, Very High Fire Hazard Severity Zones; State Fire Responsibility Areas; Earthquake Fault Zones; Seismic Hazard Zones; or any other federal, state, or local designated zone for which disclosure is required by Law.**

**C. WITHHOLDING TAXES:** Buyer and Seller hereby instruct Escrow Holder to withhold the applicable required amounts to comply with federal and California withholding Laws and forward such amounts to the Internal Revenue Service and Franchise Tax Board, respectively. However, no federal withholding is required if, prior to Close Of Escrow, Seller Delivers (i) to Buyer and Escrow Holder a fully completed affidavit (C.A.R. Form AS) sufficient to avoid withholding pursuant to federal withholding Law (FIRPTA); **OR (ii)** to a qualified substitute (usually a title company or an independent escrow company) a fully completed affidavit (C.A.R. Form AS) sufficient to avoid withholding pursuant to federal withholding Law AND the qualified substitute Delivers to Buyer and Escrow Holder an affidavit signed under penalty of perjury (C.A.R. Form QS) that the qualified substitute has received the fully completed Seller's affidavit and the Seller states that no federal withholding is required; **OR (iii)** to Buyer other documentation satisfying the requirements under Internal Revenue Code § 1445 (FIRPTA). No withholding is required under California Law if, prior to Close Of Escrow, Escrow Holder has received sufficient documentation from Seller that no withholding is required, and Buyer has been informed by Escrow Holder.

**D. MEGAN'S LAW DATABASE DISCLOSURE:** Notice: Pursuant to § 290.46 of the Penal Code, information about specified registered sex offenders is made available to the public via an Internet Web site maintained by the Department of Justice at **www.meganslaw.ca.gov**. Depending on an offender's criminal history, this information will include either the address at which the offender resides or the community of residence and ZIP Code in which he or she resides. (Neither Seller nor Agent are required to check this website. If Buyer wants further information, Agent recommends that Buyer obtain information from this website during Buyer's investigation contingency period. Agents do not have expertise in this area.)

**E. NOTICE REGARDING GAS AND HAZARDOUS LIQUID TRANSMISSION PIPELINES:** This notice is being provided simply to inform you that information about the general location of gas and hazardous liquid transmission pipelines is available to the public via the National Pipeline Mapping System (NPMS) Internet Web site maintained by the United States Department of Transportation at **http://www.npms.phmsa.dot.gov/**. To seek further information about possible transmission pipelines near the Property, you may contact your local gas utility or other pipeline operators in the area. Contact information for pipeline operators is searchable by ZIP Code and county on the NPMS Internet Website. (Neither Seller nor Agent are required to check this website. If Buyer wants further information, Agent recommends that Buyer obtain information from this website during Buyer's investigation contingency period. Agents do not have expertise in this area.)

**F. CONDOMINIUM/PLANNED DEVELOPMENT DISCLOSURES:**

(1) Seller shall, within the time specified in **paragraph 4P(1)**, disclose to Buyer whether the Property is a condominium or is located in a planned development, other common interest development, or otherwise subject to covenants, conditions, and restrictions (C.A.R. Form SPQ or ESD).



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(2) If the Property is a condominium or is located in a planned development or other common interest development with a HOA, Seller shall, within the time specified in **paragraph 4P(3)**, order from, and pay any required fee for the following items to the HOA (C.A.R. Form HOA-IR): **(i)** Copies of any documents required by Law (C.A.R. Form HOA-RS); **(ii)** disclosure of any pending or anticipated claim or litigation by or against the HOA; **(iii)** a statement containing the location and number of designated parking and storage spaces; **(iv)** Copies of the most recent 12 months of HOA minutes for regular and special meetings; **(v)** the names and contact information of all HOAs governing the Property; **(vi)** pet restrictions; and **(vii)** smoking restrictions ("CI Disclosures"). Seller shall itemize and Deliver to Buyer all CI Disclosures received from the HOA and any CI Disclosures in Seller's possession. Seller shall, as directed by Escrow Holder, deposit funds into escrow or direct to HOA or management company to pay for any of the above.

**G. NATURAL AND ENVIRONMENTAL HAZARDS:** Seller shall, within the time specified in **paragraph 4P(1)**, if required by Law: **(i)** Deliver to Buyer the earthquake guide and environmental hazards booklet, and for all residential property with 1-4 units and any manufactured or mobile home built before January 1, 1960, fully complete and Deliver the Residential Earthquake Risk Disclosure Statement; and **(ii)** even if exempt from the obligation to provide a NHD, disclose if the Property is located in a Special Flood Hazard Area; Potential Flooding (Inundation) Area; Very High Fire Hazard Zone; State Fire Responsibility Area; Earthquake Fault Zone; Seismic Hazard Zone; and **(iii)** disclose any other zone as required by Law and provide any other information required for those zones.

**H. PROPOSITION 65 WARNING**  
**MATERIALS INCLUDED IN THE CONSTRUCTION OF THIS HOUSE WILL EXPOSE YOU TO FORMALDEHYDE, A SUBSTANCE KNOWN TO CAUSE CANCER. FURTHER INFORMATION MAY BE OBTAINED FROM THE BUILDER/SELLER.**

The following information is intended to explain the warning furnished by Seller of this home for exposures to formaldehyde, a substance known to the State of California to cause cancer. The exposures are caused by materials of which the house is or will be built.

The United States Environmental Protection Agency, the California Air Resources Board, and other agencies have measured the presence of formaldehyde in the indoor air of homes in California. Levels of formaldehyde that present a significant cancer risk have been measured in most homes. Formaldehyde is present in the air because it is emitted by a variety of building materials and home products purchased by Seller from materials suppliers. These materials include carpeting, pressed wood products, insulation, plastics, and glues.

This home, if constructed prior to entering into this Agreement, has not been tested, and if constructed after entering into this Agreement, will not be tested. Most homes that have been tested elsewhere do contain formaldehyde, although the concentrations vary from home to home with no obvious explanation for the differences. One of the problems is that many suppliers of building materials and home products do not provide information on chemical ingredients to builders. In the absence of specific information on these homes, and in light of the materials used in their construction, Seller believes that a warning is necessary.

Buyer may have further questions about these issues. Seller is willing to share any further information Seller has obtained and will provide, upon request, a list of known materials suppliers that may be contacted for further information, and whether any inquiry has been made by Seller.

**I. KNOWN MATERIAL FACTS:** Seller shall, within the time specified in **paragraph 4P(1)**, DISCLOSE KNOWN MATERIAL FACTS AND DEFECTS affecting the Property, including, but not limited to, known insurance claims within the past five years, or provide Buyer with permission to contact lender to get such information (C.A.R. Form ARC), and make any and all other disclosures required by Law.

**14. INSULATION:** The Federal Trade Commission requires that a new home seller must include in every new home sales contract the following information regarding type, thickness, and R-value of insulation to be installed in each part of the residence and is specified in **paragraph 4R**.

**15. BUYER'S INVESTIGATION OF PROPERTY AND MATTERS AFFECTING PROPERTY:** Buyer shall, within the time specified in **paragraph 4M(2)**, have the right, at Buyer's expense unless Otherwise Agreed, complete all Buyer Investigations (does not include access to the Property), approve all disclosures reports, and other applicable information; and approval all other matters affecting the Property (including those concerning the registered sex offender database on **paragraph 13D**).

**16. ENTRY UPON PROPERTY**

**A.** Buyer agrees to cooperate with Seller in the construction of the Property in accordance with the terms of this Agreement. Buyer understands that, in order to allow work to progress in an orderly fashion, no interference with the work may be permitted. Because of requirements of the California and Federal Occupational and Safety and Health Acts, as well as insurance requirements of Seller and its subcontractors, Buyer further understands and agrees that Buyer may not enter upon the construction site. Should Buyer or Buyer's guests or agents visit the Property prior to Close Of Escrow, Buyer agrees to indemnify and hold Seller harmless from any and all liability, claims, demands, damages, and costs arising from, or related to, Buyer's or Buyer's guests' or agents' entry upon the Property.

**B.** After this Agreement is fully executed and during the term of the escrow, neither Buyer no Buyer's agent may enter upon the Property for the purpose of showing the Property to any prospective purchaser thereof from Buyer.

**C.** After this Agreement is fully executed and during the term of escrow, Buyer shall not place any signs on, about, or near the Property without the prior written consent of Seller.

**17. TITLE AND VESTING:**

**A.** Buyer shall, within the time specified in **paragraph 4P(1)**, be provided a current Preliminary Report by the person responsible for paying for the title policy in **paragraph 4Q(3)**. If Buyer is responsible for paying, Buyer shall act diligently and in good faith to obtain such Preliminary Report within the time specified. The Preliminary Report is only an offer by the title insurer to issue a policy of title insurance and may not contain every item affecting title. The company providing the Preliminary Report shall, prior to issuing a Preliminary Report, conduct a search of the General Index for all Sellers except banks or other institutional lenders selling properties they acquired through foreclosure (REOs), corporations, and government entities.

**B.** Title is taken in its present condition subject to all encumbrances, easements, covenants, conditions, restrictions, rights and other matters, whether of record or not, as of the date of Acceptance except for: **(i)** monetary liens of record unless Buyer is assuming those obligations or taking the Property subject to those obligations; and **(ii)** those matters which Seller has agreed to remove in writing. For any lien or matter not being transferred upon sale, Seller will take necessary action to deliver title free and clear of such lien or matter.

**C.** Seller shall within **7 Days** after request, give Escrow Holder necessary information to clear title.

**D.** Seller shall, within the time specified in **paragraph 4P(1)**, disclose to Buyer all matters known to Seller affecting title, whether of record or not.





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Date: \_\_\_\_\_

- E. If Buyer is a legal entity and the Property purchase price is at least \$300,000 and the purchase price is made without a bank loan or similar form of external financing, a Geographic Targeting Order (GTO) issued by the Financial Crimes Enforcement Network, U.S. Department of the Treasury, requires title companies to collect and report certain information about the Buyer, depending on where the Property is located. Buyer agrees to cooperate with the title company's effort to comply with the GTO.
- F. Buyer shall, after Close Of Escrow, receive a recorded grant deed or any other conveyance document required to convey title (For example, for stock cooperative or tenancy in common, respectively, an assignment of stock certificate or assignment of seller's interest in the real property), including oil, mineral and water rights if currently owned by Seller. Title shall vest as designated in Buyer's vesting instructions. The recording document shall contain Buyer's post-closing mailing address to enable Buyer's receipt of the recorded conveyance document from the County Recorder. THE MANNER OF TAKING TITLE MAY HAVE SIGNIFICANT LEGAL AND TAX CONSEQUENCES. CONSULT AN APPROPRIATE PROFESSIONAL.
- G. Buyer shall receive a "ALTA/CLTA Homeowner's Policy of Title Insurance" or equivalent policy of title insurance, if applicable to the type of property and buyer. Escrow Holder shall request this policy. If a ALTA/CLTA Homeowner's Policy of Title Insurance is not offered, Buyer shall receive a CLTA Standard Coverage policy unless Buyer has chosen another policy and instructed Escrow Holder in writing of the policy chosen and agreed to pay any increase in cost. Buyer should consult with the Title Company about the availability, and difference in coverage, and cost, if any, between a ALTA/CLTA Homeowner's Policy and a CLTA Standard Coverage policy and other title policies and endorsements. Buyer should receive notice from the Title Company on its Preliminary (Title) Report of the type of coverage offered. If Buyer is not notified on the Preliminary (Title) Report or is not satisfied with the policy offered, and Buyer nonetheless removes the contingency for Review of the Preliminary Report, Buyer will receive the policy as specified in this paragraph.

**18. TIME PERIODS; REMOVAL OF CONTINGENCIES; CANCELLATION RIGHTS: The following time periods may only be extended, altered, modified or changed by mutual written agreement. Any removal of contingencies or cancellation under this paragraph by either Buyer or Seller must be exercised in good faith and in writing (C.A.R. Form CR or CC).**

**A. SELLER DELIVERY OF DOCUMENTS:** Seller shall, within the time specified in **paragraph 4P(1)**, Deliver to Buyer all reports, disclosures and information ("Reports") for which Seller is responsible as specified in **paragraphs 9B(6), 10C, 11, 12, 13A, and 32, 34, 35, and 36**. This paragraph does not apply to the delivery of the Public Report. See **paragraphs 4 and 12** for Public Report delivery requirements.

**B. BUYER REVIEW OF DOCUMENTS; CONTINGENCY REMOVAL OR CANCELLATION**

- (1) Buyer has the time specified in **paragraph 4M** to: (i) perform Buyer Investigations; review all disclosures, reports, lease documents to be assumed by Buyer pursuant to **paragraph 10C**, and other applicable information, which Buyer receives from Seller; and approve all matters affecting the Property; and (ii) Deliver to Seller Signed Copies of Statutory and Other Disclosures Delivered by Seller in accordance with **paragraph 13A(4)**.
- (2) Buyer shall, by the end of the times specified in **paragraph 4M** (or as Otherwise Agreed), Deliver to Seller a removal of the applicable contingency or cancellation of this Agreement (C.A.R. Form CR or CC). However, if any report, disclosure, or information for which Seller is responsible is not Delivered within the time specified in **paragraph 4M(3-4)**, then Buyer has **5 Days** after Delivery of any such items, or the times specified in **paragraph 4M**, whichever is later, to Deliver to Seller a removal of the applicable contingency or cancellation of this Agreement. If Delivery of any Report occurs after a contractual contingency pertaining to that Report has already been waived or removed, the Delivery of the Report does not revive the contingency but there may be a right to terminate for a subsequent or amended disclosure under **paragraph 13A(1)(D)**.
- (3) **Continuation of Contingency:** Even after the end of the time specified in **paragraph 4M** and before Seller cancels, if at all, pursuant to **paragraph 18C**, Buyer retains the right, in writing, to either (i) remove remaining contingencies, or (ii) cancel this Agreement based on a remaining contingency. Once Buyer's written removal of all contingencies is Delivered to Seller, Seller may not cancel this Agreement pursuant to **paragraph 18C(1)**.

**C. SELLER RIGHT TO CANCEL:**

- (1) **SELLER RIGHT TO CANCEL; BUYER CONTINGENCIES:** If, by the time specified in this Agreement, Buyer does not Deliver to Seller a removal of the applicable contingency or cancellation of this Agreement, then Seller, after first Delivering to Buyer a Notice to Buyer to Perform (C.A.R. Form NBP), may cancel this Agreement. In such event, Seller shall authorize the return of Buyer's deposit, except for fees incurred by Buyer.
- (2) **SELLER RIGHT TO CANCEL; BUYER CONTRACT OBLIGATIONS:** Seller, after first Delivering to Buyer a Notice to Buyer to Perform, may cancel this Agreement if, by the time specified in this Agreement, Buyer does not take the following action(s): (i) Deposit funds as required by **paragraph 4D(1-3)** or if the funds deposited pursuant to **paragraph 4D(1-3)** are not good when deposited; (ii) Deliver updated contact information for Buyer's lender(s) as required by **paragraph 6C(3)**; (iii) Deliver a notice of FHA or VA costs or terms, if any, as specified by **paragraph 6C(4)** (C.A.R. Form RR); (iv) Deliver verification, or a satisfactory verification if Seller reasonably disapproves of the verification already provided, as required by **paragraph 6B** or **7A**; (v) Deliver a letter as required by **paragraph 7B**; (vi) In writing assume or accept leases or liens specified in **paragraph 9G**; (vii) Return Statutory and Other Disclosures as required by **paragraph 13A(4)**; (viii) Cooperate with the title company's effort to comply with the GTO as required by **paragraph 17**; (ix) Sign or initial a separate liquidated damages form for an increased deposit as required by **paragraph 6A(2)** and **42**; (x) Provide evidence of authority to Sign in a representative capacity as specified in **paragraph 32**; or (xi) Perform any additional Buyer contractual obligation(s) included in this Agreement. In such event, Seller shall authorize the return of Buyer's deposit, except for fees allocated to Seller in this Agreement and already paid by Escrow prior to cancellation of this Agreement and notification to Escrow.
- (3) **SELLER RIGHT TO CANCEL; SELLER CONTINGENCIES:** Seller may cancel this Agreement by good faith exercise of any Seller contingency included in this Agreement, or Otherwise Agreed, so long as that contingency has not already been removed or waived in writing.

**D. BUYER RIGHT TO CANCEL:**

- (1) **BUYER RIGHT TO CANCEL; SELLER CONTINGENCIES:** If, by the time specified in this Agreement, Seller does not Deliver to Buyer a removal of the applicable contingency or cancellation of this Agreement, then Buyer, after first Delivering to Seller a Notice to Seller to Perform (C.A.R. Form NSP), may cancel this Agreement. In such event, Seller shall authorize the return of Buyer's deposit, except for fees allocated to Seller in the Agreement and already paid by Escrow prior to cancellation of this Agreement and notification to Escrow.
- (2) **BUYER RIGHT TO CANCEL; SELLER CONTRACT OBLIGATIONS:** If, by the time specified, Seller has not Delivered any item specified in **paragraph 4P(1)** or Seller has not performed any Seller contractual obligation included in this Agreement by the time specified, Buyer, after first Delivering to Seller a Notice to Seller to Perform, may cancel this Agreement.
- (3) **BUYER RIGHT TO CANCEL; BUYER CONTINGENCIES:** Buyer may cancel this Agreement by good faith exercise of any Buyer contingency included in **paragraph 9**, or Otherwise Agreed, so long as that contingency has not already been removed in writing.



Property Address: \_\_\_\_\_

Date: \_\_\_\_\_

- E. NOTICE TO BUYER OR SELLER TO PERFORM:** The Notice to Buyer to Perform or Notice to Seller to Perform shall: (i) be in writing; (ii) be Signed by the applicable Buyer or Seller; and (iii) give the other Party at least **2 Days** after Delivery (or until the time specified in the applicable paragraph, whichever occurs last) to take the applicable action. A Notice to Buyer to Perform or Notice to Seller to Perform may not be Delivered any earlier than **2 Days** prior to the Scheduled Performance Day to remove a contingency or cancel this Agreement or meet an obligation specified in **paragraph 18**, whether or not the Scheduled Performance Day falls on a Saturday, Sunday or legal holiday. If a Notice to Buyer to Perform or Notice to Seller to Perform is incorrectly Delivered or specifies a time less than the agreed time, the notice shall be deemed invalid and void and Seller or Buyer shall be required to Deliver a new Notice to Buyer to Perform or Notice to Seller to Perform with the specified timeframe.
- F. EFFECT OF REMOVAL OF CONTINGENCIES:**
  - (1) **REMOVAL OF BUYER CONTINGENCIES:** If Buyer removes any contingency or cancellation rights, unless Otherwise Agreed, Buyer shall conclusively be deemed to have: (i) completed all Buyer Investigations, and review of reports and other applicable information and disclosures pertaining to that contingency or cancellation right; (ii) elected to proceed with the transaction; and (iii) assumed all liability, responsibility and expense for the non-delivery of any reports, disclosures or information outside of Seller's control and for any Repairs or corrections pertaining to that contingency or cancellation right, or for the inability to obtain financing.
  - (2) **REMOVAL OF SELLER CONTINGENCIES:** If Seller removes any contingency or cancellation rights, unless Otherwise Agreed, Seller shall conclusively be deemed to have: (i) satisfied themselves regarding such contingency, (ii) elected to proceed with the transaction; and (iii) given up any right to cancel this Agreement based on such contingency.
- G. DEMAND TO CLOSE ESCROW:** Before Buyer or Seller may cancel this Agreement for failure of the other Party to close escrow pursuant to this Agreement, Buyer or Seller must first Deliver to the other Party a Demand to Close Escrow (C.A.R. Form DCE). The DCE shall: (i) be Signed by the applicable Buyer or Seller; and (ii) give the other Party at least **3 Days** after Delivery to close escrow. A DCE may not be Delivered any earlier than **3 Days** prior to the Scheduled Performance Day for the Close Of Escrow. If a DCE is incorrectly Delivered or specifies a time less than the agreed time, the DCE shall be deemed invalid and void and Seller or Buyer shall be required to Deliver a new DCE.
- H. EFFECT OF CANCELLATION ON DEPOSITS:** If Buyer or Seller gives written notice of cancellation pursuant to rights duly exercised under the terms of this Agreement, the Parties agree to Sign and Deliver mutual instructions to cancel the sale and escrow and release deposits, if any, to the Party entitled to the funds, less (i) fees and costs paid by Escrow Holder on behalf of that Party, if required by this Agreement; and (ii) any escrow cancellation fee charged to that party. Fees and costs may be payable to service providers and vendors for services and products provided during escrow. **A release of funds will require mutual Signed release instructions from the Parties, judicial decision or arbitration award. A Party may be subject to a civil penalty of up to \$1,000 for refusal to Sign cancellation instructions if no good faith dispute exists as to which Party is entitled to the deposited funds (Civil Code § 1057.3). Note: Neither Agents nor Escrow Holder are qualified to provide any opinion on whether either Party has acted in good faith or which Party is entitled to the deposited funds. Buyer and Seller are advised to seek the advice of a qualified California real estate attorney regarding this matter.**
- 19. FINAL VERIFICATION OF CONDITION:** Buyer shall have the right to make a final inspection of the Property accompanied by Seller within the time specified in **paragraph 4K**, NOT AS A CONTINGENCY OF THE SALE, but solely for the purpose of preparing a list of corrective work, if any, which may be necessary. Seller shall provide Buyer with notice at least **3 Days** prior to the date on which the Property is to be inspected and shall have the right to accompany Buyer on such inspection. Buyer's failure to make the final inspection on the agreed date, the existence of minor defects in the welling, or any corrective work agreed to be performed by Seller pursuant to this paragraph shall not cause a delay in the Close Of Escrow or entitle Buyer to withhold any portion of the purchase price. Seller shall, prior to or after the Close Of Escrow, proceed diligently to complete all corrective work agreed to and acknowledged by Buyer and Seller in writing in a reasonably prompt manner in accordance with Seller's Warranty.
- 20. PRORATIONS OF PROPERTY TAXES AND OTHER ITEMS:** Unless Otherwise Agreed, the following items shall be PAID CURRENT and prorated between Buyer and Seller as of Close Of Escrow: real property taxes and assessments, interest, Seller rental payments, HOA regular assessments due prior to Close Of Escrow, premiums on insurance assumed by Buyer, payments on bonds and assessments assumed by Buyer, and payments on Mello-Roos and other Special Assessment District bonds and assessments that are now a lien. Seller shall pay any HOA special or emergency assessments due prior to Close Of Escrow. The following items shall be assumed by Buyer WITHOUT CREDIT toward the purchase price: prorated payments on Mello-Roos and other Special Assessment District bonds and assessments and HOA special or emergency assessments that are due after Close Of Escrow. Property will be reassessed upon change of ownership. Any supplemental tax bills delivered to Escrow Holder prior to closing shall be prorated and paid as follows: (i) for periods after Close Of Escrow, by Buyer; and (ii) for periods prior to Close Of Escrow, by Seller (see C.A.R. Form SPT or SBSA for further information). Seller agrees all service fees, maintenance costs and utility bills will be paid current up and through the date of Close Of Escrow. **TAX BILLS AND UTILITY BILLS ISSUED AFTER CLOSE OF ESCROW SHALL BE HANDLED DIRECTLY BETWEEN BUYER AND SELLER.** Prorations shall be made based on a 30-day month.
- 21. BROKERS AND AGENTS:**
  - A. COMPENSATION:** Seller or Buyer, or both, as applicable, agree to pay compensation to Broker as specified in a separate written agreement between Broker and that Seller or Buyer. Compensation is payable upon Close Of Escrow, or if escrow does not close, as otherwise specified in the agreement between Broker and that Seller or Buyer.
  - B. SCOPE OF DUTY:** Buyer and Seller acknowledge and agree that Agent: (i) Does not decide what price Buyer should pay or Seller should accept; (ii) Does not guarantee the condition of the Property; (iii) Does not guarantee the performance, adequacy or completeness of inspections, services, products or repairs provided or made by Seller or others; (iv) Does not have an obligation to conduct an inspection of common areas or areas off the site of the Property; (v) Shall not be responsible for identifying defects on the Property, in common areas, or offsite unless such defects are visually observable by an inspection of reasonably accessible areas of the Property or are known to Agent; (vi) Shall not be responsible for inspecting public records or permits concerning the title or use of Property; (vii) Shall not be responsible for identifying the location of boundary lines or other items affecting title; (viii) Shall not be responsible for verifying square footage, representations of others or information contained in Investigation reports, Multiple Listing Service, advertisements, flyers or other promotional material; (ix) Shall not be responsible for determining the fair market value of the Property or any personal property included in the sale; (x) Shall not be responsible for providing legal or tax advice regarding any aspect of a transaction entered into by Buyer or Seller; and (xi) Shall not be responsible for providing other advice or information that exceeds the knowledge, education and experience required to perform real estate licensed activity. Buyer and Seller agree to seek legal, tax, insurance, title and other desired assistance from appropriate professionals.
  - C. REFERRAL LICENSEE COMPENSATION:** (If checked in **paragraph 3E**, Seller or Buyer, agree that Referral Licensee shall be compensated the amount specified in **paragraph 3E**. **Note to Referral Licensee: Agency relationships can be established by conduct notwithstanding the classification as a referral licensee in the Agreement.**



**22. JOINT ESCROW INSTRUCTIONS TO ESCROW HOLDER:**

- A. The following paragraphs, or applicable portions thereof, of this Agreement constitute the joint escrow instructions of Buyer and Seller to Escrow Holder**, which Escrow Holder is to use along with any related counter offers and addenda, and any additional mutual instructions to close the escrow: **paragraphs 1, 4A, 4B, 4D-G, 4P(2), 4Q, 4U, 6A(1-3) 6D, 6E, 10, 13C, 13F(2), 17 (except 17D), 18H, 20, 21A, 22, 26, 29, 31, 45, 46, and paragraph 3 of the Real Estate Brokers Section**. If a Copy of the separate compensation agreement(s) provided for in **paragraph 21A** or **paragraph 3 of the Real Estate Brokers Section** is deposited with Escrow Holder by Agent, Escrow Holder shall accept such agreement(s) and pay out from Buyer's or Seller's funds, or both, as applicable, the Broker's compensation provided for in such agreement(s). The terms and conditions of this Agreement not set forth in the specified paragraphs are additional matters for the information of Escrow Holder, but about which Escrow Holder need not be concerned.
- B. IF PROPERTY IS SUBJECT TO A PUBLIC REPORT OR EXEMPT FROM A PUBLIC REPORT PUSUANT TO BUSINESS AND PROFESSIONS CODE § 11010.4, THE FOLLOWING ADDITIONAL ESCROW INSTRUCTIONS APPLY:**
- (1) **BLANKET ENCUMBRANCE:** Not as a condition of Seller's duty to complete construction under **paragraph 1D(2)**, but solely for the benefit of Buyer, the escrow shall not close, funds shall not be released from escrow, and title shall not be conveyed to Buyer, until all of the following conditions have been met: (i) Seller has complied with the purchase money handling requirements of B&P Code §§ 11013, 11013.1, 11013.2, or 11013.4, as applicable; and (ii) Buyer has been provided a policy of title insurance showing that the Property is free and clear of any blanket encumbrances as defined in § 11013. For purposes of compliance with § 11013.2(a), a release from a blanket encumbrance resulting from a deed of trust or mortgage shall require satisfaction with either of the following: (a) an instrument has been duly recorded unconditionally reconveying and releasing the Property from the lien or charge of such deed of trust; or (b) Buyer is notified that an agreement or demand constituting a release agreement as defined in DRE Regulation 2791.1(b)(2)(A) has been duly deposited with Escrow Holder and is available to Buyer on request for each deed of trust, and Buyer will be provided with a policy of title insurance insuring Buyer against loss by reason of such deed of trust.
  - (2) **COMMON INTEREST SUBDIVISION:** If Seller discloses property is in a common interest subdivision, as required under **paragraph 13F**, the attached Common Interest Subdivision Supplemental Escrow Instructions (C.A.R. Form NCEI) are made a part of this Agreement. **[Note to Seller: For property subject to a public report, you must use the Common Interest Subdivision Supplemental Escrow Instructions provided with this NCPA or submit to, and have approval for use from, the DRE for any other supplemental escrow instructions you intend to use.]**
  - (3) If escrow does not close within 1 year after Acceptance of this Agreement, and Buyer and Seller have not extended the closing date in writing, and the failure to close escrow is not due to the default of Buyer, escrow is to be cancelled and all funds in escrow immediately returned to Buyer upon Buyer's request.
  - (4) Subject to the requirements of Civil Code §§ 1675(c) or (d), 1676, 1677, and 1678, if funds deposited in escrow by Buyer have been disbursed on Seller's instructions as permitted by DRE Regulation 2791, the funds expended by Seller shall be reimbursed to escrow within **15 Days** after Seller's failure to perform within 1 year after Acceptance of this Agreement, and Buyer and Seller have not extended the closing date in writing, and those funds shall be immediately returned to Buyer from escrow.
  - (5) Escrow shall not close until Escrow Holder has received written notice from a title insurance company that each and every encumbrance, including without limitation, any mortgage or deed of trust, filed of record prior to the time of recording of the Declaration of Covenants, Conditions, and Restrictions has either been (i) fully reconveyed or (ii) expressly subordinated to the Declaration of Covenants, Conditions, and Restrictions.
- C.** Buyer and Seller will receive Escrow Holder's general provisions, if any, directly from Escrow Holder. To the extent the general provisions are inconsistent or conflict with this Agreement, the general provisions will control as to the duties and obligations of Escrow Holder only. Buyer and Seller shall Sign and return Escrow Holder's general provisions or supplemental instructions within the time specified in **paragraph 4P(2)**. Buyer and Seller shall execute additional instructions, documents and forms provided by Escrow Holder that are reasonably necessary to close the escrow and, as directed by Escrow Holder, within **3 Days**, shall pay to Escrow Holder or HOA or HOA management company or others any fee required by **paragraphs 4, 9, 11, 13** or elsewhere in this Agreement.
- D.** A Copy of this Agreement including any counter offer(s) and addenda shall be delivered to Escrow Holder within **3 Days** after **Acceptance**. Buyer and Seller authorize Escrow Holder to accept and rely on Copies and Signatures as defined in this Agreement as originals, to open escrow and for other purposes of escrow. The validity of this Agreement as between Buyer and Seller is not affected by whether or when Escrow Holder Signs this Agreement. Escrow Holder shall provide Seller's Statement of Information to Title Company when received from Seller, if a separate company is providing title insurance. If Seller delivers an affidavit to Escrow Holder to satisfy Seller's FIRPTA obligation under **paragraph 13C**, Escrow Holder shall deliver to Buyer, Buyer's Agent, and Seller's Agent a Qualified Substitute statement that complies with federal Law. If Escrow Holder's Qualified Substitute statement does not comply with federal law, the Parties instruct escrow to withhold all applicable required amounts under **paragraph 13C**.
- E.** Agents are not a party to the escrow except for the sole purpose of receiving compensation pursuant to **paragraph 21A and paragraph 3 of the Real Estate Brokers Section**. If a Copy of the separate compensation agreement(s) provided for in either of those paragraphs is deposited with Escrow Holder by Agent, Escrow Holder shall accept such agreement(s) and pay out from Buyer's or Seller's funds, or both, as applicable, the Broker's compensation provided for in such agreement(s). Buyer and Seller irrevocably assign to Brokers compensation specified in **paragraph 21A**, and irrevocably instruct Escrow Holder to disburse those funds to Brokers at Close Of Escrow or pursuant to any other mutually executed cancellation agreement. Compensation instructions can be amended or revoked only with the written consent of Brokers. Buyer and Seller shall release and hold harmless Escrow Holder from any liability resulting from Escrow Holder's payment to Broker(s) of compensation pursuant to this Agreement.
- F.** Buyer and Seller acknowledge that Escrow Holder may require invoices for expenses under this Agreement. Buyer and Seller, upon request by Escrow Holder, within **3 Days** or within a sufficient time to close escrow, whichever is sooner, shall provide any such invoices to Escrow Holder.
- G.** Upon receipt, Escrow Holder shall provide Buyer, Seller, and each Agent verification of Buyer's deposit of funds pursuant to **paragraph 6A(1-3)**. Once Escrow Holder becomes aware of any of the following, Escrow Holder shall immediately notify each Agent: (i) if Buyer's initial or any additional deposit or down payment is not made pursuant to this Agreement, or is not good at time of deposit with Escrow Holder; or (ii) if Buyer and Seller instruct Escrow Holder to cancel escrow.
- H.** A Copy of any amendment that affects any paragraph of this Agreement for which Escrow Holder is responsible shall be delivered to Escrow Holder within **3 Days** after mutual execution of the amendment.

Property Address: \_\_\_\_\_ Date: \_\_\_\_\_

- 23. **SELECTION OF SERVICE PROVIDERS:** Agents do not guarantee the performance of any vendors, service or product providers (“Providers”), whether referred by Agent or selected by Buyer, Seller or other person. Buyer and Seller may select ANY Providers of their own choosing.
- 24. **MULTIPLE LISTING SERVICE (“MLS”):** Agents are authorized to report to the MLS that an offer has been accepted and, upon Close Of Escrow, the sales price and other terms of this transaction shall be provided to the MLS to be published and disseminated to persons and entities authorized to use the information on terms approved by the MLS. Buyer acknowledges that: (i) any pictures, videos, floor plans (collectively, “Images”) or other information about the Property that has been or will be inputted into the MLS or internet portals, or both, at the instruction of Seller or in compliance with MLS rules, will not be removed after Close Of Escrow; (ii) California Civil Code § 1088(c) requires the MLS to maintain such Images and information for at least three years and as a result they may be displayed or circulated on the Internet, which cannot be controlled or removed by Seller or Agents; and (iii) Seller, Seller’s Agent, Buyer’s Agent, and MLS have no obligation or ability to remove such Images or information from the Internet.
- 25. **ATTORNEY FEES AND COSTS:** In any action, proceeding, or arbitration between Buyer and Seller arising out of this Agreement, the prevailing Buyer or Seller shall be entitled to reasonable attorney fees and costs from the non-prevailing Buyer or Seller, except as provided in **paragraph 43**.
- 26. **ASSIGNMENT:** Buyer shall have the right to assign all of Buyer’s interest in this Agreement to Buyer’s own trust or to any wholly owned entity of Buyer that is in existence at the time of such assignment. Otherwise, Buyer shall not assign all or any part of Buyer’s interest in this Agreement without first having obtained the separate written consent of Seller to a specified assignee. Such consent shall not be unreasonably withheld. Prior to any assignment, Buyer shall disclose to Seller the name of the assignee and the amount of any monetary consideration between Buyer and assignee. Buyer shall provide assignee with all documents related to this Agreement including, but not limited to, the Agreement and any disclosures. If assignee is a wholly owned entity or trust of Buyer, that assignee does not need to re-sign or initial all documents provided. Whether or not an assignment requires seller’s consent, at the time of assignment, assignee shall deliver a letter from assignee’s lender that assignee is prequalified or preapproved as specified in **paragraph 7B**. Should assignee fail to deliver such a letter, Seller, after first giving Assignee an Notice to Perform, shall have the right to terminate the assignment. Buyer shall, within the time specified in **paragraph 4L**, Deliver any request to assign this Agreement for Seller’s consent. If Buyer fails to provide the required information within this time frame, Seller’s withholding of consent shall be deemed reasonable. Any total or partial assignment shall not relieve Buyer of Buyer’s obligations pursuant to this Agreement unless Otherwise Agreed by Seller (C.A.R. Form AOAA).
- 27. **SEVERABILITY:** If any term, condition, or provision of this Agreement is declared illegal or invalid for any reason by a court of competent jurisdiction, or arbitrator, the remaining terms, conditions, and provisions shall, nevertheless, remain in full force and effect.
- 28. **EQUAL HOUSING OPPORTUNITY:** The Property is sold in compliance with federal, state and local anti-discrimination Laws.
- 29. **DEFINITIONS and INSTRUCTIONS:** The following words are defined terms in this Agreement, shall be indicated by initial capital letters throughout this Agreement, and have the following meaning whenever used:
  - A. **“Acceptance”** means the time the offer or final counter offer is fully executed, in writing, by the recipient Party and is Delivered to the offering Party or that Party’s Authorized Agent.
  - B. **“Agent”** means the Broker, salesperson, broker-associate or any other real estate licensee licensed under the brokerage firm identified in **paragraph 3**.
  - C. **“Agreement”** means this document and any counter offers and any incorporated addenda or amendments, collectively forming the binding agreement between the Parties. Addenda and amendments are incorporated only when Signed and Delivered by all Parties.
  - D. **“As-Is”** condition: Seller shall disclose known material facts and defects as specified in this Agreement. Buyer has the right to inspect the Property and, within the time specified, request that Seller make repairs or take other corrective action, or exercise any contingency cancellation rights in this Agreement. Seller is only required to make repairs specified in this Agreement or as Otherwise Agreed.
  - E. **“Authorized Agent”** means an individual real estate licensee specified in the Real Estate Broker Section.
  - F. **“C.A.R. Form”** means the most current version of the specific form referenced or another comparable form agreed to by the Parties.
  - G. **“Close Of Escrow”**, including “COE”, means the date the grant deed, or other evidence of transfer of title, is recorded for any real property, or the date of Delivery of a document evidencing the transfer of title for any non-real property transaction.
  - H. **“Copy”** means copy by any means including photocopy, facsimile and electronic.
  - I. **Counting Days** is done as follows unless Otherwise Agreed: (1) The first Day after an event is the first full calendar date following the event, and ending at 11:59 pm. For example, if a Notice to Buyer to Perform (C.A.R. form NBP) is Delivered at 3 pm on the 7th calendar day of the month, or Acceptance of a counter offer is personally received at 12 noon on the 7th calendar day of the month, then the 7th is Day “0” for purposes of counting days to respond to the NBP or calculating the Close Of Escrow date or contingency removal dates and the 8th of the month is Day 1 for those same purposes. (2) All calendar days are counted in establishing the first Day after an event. (3) All calendar days are counted in determining the date upon which performance must be completed, ending at 11:59 pm on the last day for performance (“Scheduled Performance Day”). (4) After Acceptance, if the Scheduled Performance Day for any act required by this Agreement, including Close Of Escrow, lands on a Saturday, Sunday, or legal holiday, the performing party shall be allowed to perform on the next day that is not a Saturday, Sunday or legal holiday (“Allowable Performance Day”), and ending at 11:59 pm. (5) For the purposes of COE, any day that the Recorder’s office in the County where the Property is located is closed, the COE shall occur on the next day the Recorder’s office in that County is open. (6) COE is considered Day 0 for purposes of counting days Seller is allowed to remain in possession, if permitted by this Agreement.
  - J. **“Day”** or **“Days”** means calendar day or days. However, delivery of deposit to escrow is based on business days.
  - K. **“Deliver”, “Delivered”** or **“Delivery”** of documents, unless Otherwise Agreed, means and shall be effective upon personal receipt of the document by Buyer or Seller or their Authorized Agent. Personal receipt means (i) a Copy of the document, or as applicable, link to the document, is in the possession of the Party or Authorized Agent, regardless of the Delivery method used (i.e. e-mail, text, other), or (ii) an electronic Copy of the document, or as applicable, link to the document, has been sent to any of the designated electronic delivery addresses specified in the Real Estate Broker Section on page 16. After Acceptance, Agent may change the designated electronic delivery address for that Agent by, in writing, Delivering notice of the change in designated electronic delivery address to the other Party. Links could be, for example, to DropBox or GoogleDrive or other functionally equivalent program. If the recipient of a link is unable or unwilling to open the link or download the documents or otherwise prefers Delivery of the documents directly, Recipient of a link shall notify the sender in writing, within **3 Days** after Delivery of the link (C.A.R. Form RFR). In such case, Delivery shall be effective upon Delivery of the documents and not the link. Failure to notify sender within the time specified above shall be deemed consent to receive, and Buyer opening, the document by link.
  - L. **“DRE”** means the Department of Real Estate.



Property Address: \_\_\_\_\_ Date: \_\_\_\_\_

- M. "Electronic Copy" or "Electronic Signature" means, as applicable, an electronic copy or signature complying with California Law. Buyer and Seller agree that electronic means will not be used by either Party to modify or alter the content or integrity of this Agreement without the knowledge and consent of the other Party.
- N. "Law" means any law, code, statute, ordinance, regulation, rule or order, which is adopted by a controlling city, county, state or federal legislative, judicial or executive body or agency.
- O. "Legally Authorized Signer" means an individual who has authority to Sign for the principal as specified in **paragraph 45** or **paragraph 46**.
- P. "Otherwise Agreed" means an agreement in writing, signed by both Parties and Delivered to each.
- Q. "Repairs" means any repairs (including pest control), alterations, replacements, modifications or retrofitting of the Property provided for under this Agreement.
- R. "Sign" or "Signed" means either a handwritten or Electronic Signature on an original document, Copy or any counterpart.

**30. TERMS AND CONDITIONS OF OFFER:** This is an offer to purchase the Property on the terms and conditions herein. The individual Liquidated Damages and Arbitration of Disputes paragraphs are incorporated in this Agreement if initialed by all Parties or if incorporated by mutual agreement in a Counter Offer or addendum. **If at least one but not all Parties initial, a Counter Offer is required until agreement is reached.** Seller has the right to continue to offer the Property for sale and to accept any other offer at any time prior to notification of Acceptance and to market the Property for backup offers after Acceptance. The Parties have read and acknowledge receipt of a Copy of the offer and agree to the confirmation of agency relationships. If this offer is accepted and Buyer subsequently defaults, Buyer may be responsible for payment of Brokers' compensation. This Agreement and any supplement, addendum or modification, including any Copy, may be Signed in two or more counterparts, all of which shall constitute one and the same writing. By signing this offer or any document in the transaction, the Party Signing the document is deemed to have read the document in its entirety.

**31. TIME OF ESSENCE; ENTIRE CONTRACT; CHANGES:** Time is of the essence. All understandings between the Parties are incorporated in this Agreement. Its terms are intended by the Parties as a final, complete and exclusive expression of their Agreement with respect to its subject matter and may not be contradicted by evidence of any prior agreement or contemporaneous oral agreement. If any provision of this Agreement is held to be ineffective or invalid, the remaining provisions will nevertheless be given full force and effect. Except as Otherwise Agreed, this Agreement shall be interpreted, and disputes shall be resolved in accordance with the Laws of the State of California. **Neither this Agreement nor any provision in it may be extended, amended, modified, altered or changed, except in writing Signed by Buyer and Seller.**

**32. LEGALLY AUTHORIZED SIGNER:** Wherever the signature or initials of the Legally Authorized Signer identified in **paragraph 45** or **46** appear on this Agreement or any related documents, it shall be deemed to be in a representative capacity for the entity described and not in an individual capacity, unless otherwise indicated. The Legally Authorized Signer **(i)** represents that the entity for which that person is acting already exists and is in good standing to do business in California and **(ii)** shall Deliver to the other Party and Escrow Holder, within **3 Days** after Acceptance, evidence of authority to act in that capacity (such as but not limited to: applicable portion of the trust or Certification Of Trust (Probate Code § 18100.5), letters testamentary, court order, power of attorney, corporate resolution, or formation documents of the business entity).

**33. DOCUMENTATION TO SUBSEQUENT PURCHASERS:** Buyer is instructed to give any subsequent purchasers all documents related to the sale and purchase that Buyer receives from Seller.

**34. MAINTENANCE RECOMMENDATIONS:** Provided with the Agreement are Copies of all builder maintenance and preventative maintenance recommendations.

**35. MANUFACTURED PRODUCTS MAINTENANCE AND LIMITED WARRANTIES:** Provided with the Agreement are Copies of all manufactured products maintenance, preventative maintenance, and limited warranty information.

**36. SELLER'S WARRANTY:**

A. As specified in **paragraph 4T**, Seller shall provide the following warranty:

- (1) **STANDARD WARRANTY:** Seller warrants the Property against defective materials and workmanship **(i)** for sales subject to Civil Code §§ 895-945.5, for a minimum period of time established by those code sections, or **(ii)** for Sales not subject to Civil Code §§ 895-945.5, for a period of 1 year from the date of possession. In either (i) or (ii), Seller's Warranty only applies if Seller receives notice of such defect(s) within the warranty period. Items or defects that were inspected and approved under **paragraph 15** or thereafter, minor settling cracks, damage caused by Buyer or movers, or damage due to alterations or additions made other than by Seller, are excluded from Seller's Warranty. For defects that are covered by the Seller's Warranty under **paragraph 36A(1)(ii)**, Seller will, within a reasonable time, at Seller's option repair or replace any covered defect in the Property.
- (2) **LIMITED WARRANTY:** At Close Of Escrow, Seller shall provide Buyer with a Limited Warranty against defective materials and workmanship, which will be evidenced by the documents delivered with this agreement. **Note to Seller: For property sold subject to a public report, you must submit to, and have approval for use from, the DRE for any Limited Warranty you intend to attach to this Agreement.** A Copy of such warranty shall be provided to Buyer within the time specified in **paragraph 4P(1)**.

B. Seller shall not be liable for, or have any obligation to provide, warranty services with respect to any defect expressly accepted by Buyer and Close Of Escrow.

C. THE SELLER'S WARRANTY IS PROVIDED IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OF FITNESS, AND IN LIEU OF ANY STRICT LIABILITY OF SELLER IN TORT, TO THE EXTENT SUCH LIABILITY MAY BE DISCLAIMED UNDER CALIFORNIA LAW. THE SELLER'S WARRANTY ALSO EXCLUDES LIABILITY FOR CONSEQUENTIAL DAMAGES TO THE EXTENT THAT SUCH LIABILITY MAY BE DISCLAIMED UNDER CALIFORNIA LAW.

D. WHETHER OR NOT SELLER WARRANTS ANY ASPECT OF THE PROPERTY, SELLER IS OBLIGATED TO DISCLOSE KNOWN MATERIAL FACTS, AND TO MAKE OTHER DISCLOSURES REQUIRED BY LAW.

E. Buyer and Seller understand and acknowledge that Brokers or Referral Licensee shall not be liable for any breach of this paragraph.

**37. BUILDER LIMITED CONTRACTUAL WARRANTIES:** Provided with this Agreements are Copies of all builder limited contractual warranties not specified in **paragraph 36** of this Agreement or elsewhere in writing. **Note to Seller: For property sold subject to a public report, you must submit to, and have approval for use from, the DRE for any Limited Warranty you intend to attach to this Agreement.**



**38. PROCEDURES FOR ACTIONS ON CONSTRUCTION DEFECTS AND ESCROW INSTRUCTION:** Unless Otherwise Agreed below, this sale is governed by Civil Code §§ 895-945.5 and all of the terms of **paragraph 38** apply.

By initialing here, Buyer's Initials \_\_\_\_\_/\_\_\_\_\_, Seller's Initials \_\_\_\_\_/\_\_\_\_\_, Buyer and Seller are agreeing that this sale is NOT governed by Civil Code §§ 895-945.5 and **paragraphs 38A-E** do not apply.

**WARNING: DO NOT INITIAL HERE UNLESS BOTH PARTIES INTEND TO OPT OUT OF CIVIL CODE §§ 895-945.5**

- A. **"Notice:** California law establishes procedures that must be followed prior to the filing of any action related to a claimed construction defect. These procedures impact the legal rights of a homeowner. These procedures may be found in Title 7 of Part 2 of Division 2 of the California Civil Code commenting with § 895."
- B. **Escrow Holder Instruction:** By signing this document, the Parties are instructing Escrow Holder to insert in the deed the language specified in quotes in paragraph 38A above.
- C.  Attached to the Agreement is a Copy of California Civil Code §§ 895-945.5 (NOTE: REALTORS® may obtain a copy of California Civil Code §§ 895-945.5 in the EPubs library in zipForm®).
- D. By initialing here, Buyer and Seller acknowledge that each has received and read this paragraph and the copy of California Civil Code §§ 895-945.5 provided.

Buyer's Initials \_\_\_\_\_/\_\_\_\_\_

Seller's Initials \_\_\_\_\_/\_\_\_\_\_

- E. **AGENT FOR NOTICE:** Claims and requests for information relating to construction defect allegations made pursuant to Chapter 4 of Title 7 of Part 2 of Division 2 of the California Civil Code commencing with § 910 may be made to the following person at the following address: \_\_\_\_\_

By initialing here, Buyer and Seller acknowledge that each has read and understands this paragraph

Buyer's Initials \_\_\_\_\_/\_\_\_\_\_

Seller's Initials \_\_\_\_\_/\_\_\_\_\_

**39. NON-ADVERSARIAL PROCEDURE OF CALIFORNIA CIVIL CODE:** Seller elects to engage in the non-adversarial procedure set forth in California Civil Code § 914 for construction defect claims, unless initialed in this paragraph. If initialed here, Seller opts out and Buyer and Seller agree to be bound by the alternative procedure, set forth in the attached Addendum. **[Note to Seller: For property sold subject to a public report, you must submit to, and have approval for use from, the DRE for any addenda you intend to attach to this Agreement.]**

Buyer's Initials \_\_\_\_\_/\_\_\_\_\_

Seller's Initials \_\_\_\_\_/\_\_\_\_\_

**WARNING: DO NOT INITIAL HERE UNLESS BOTH PARTIES INTEND TO OPT OUT OF NON-ADVERSARIAL PROCEDURES**

- 40. **PURCHASE MONEY DISTRIBUTIONS TO THIRD PARTIES:** Pursuant to DRE Regulation 2791(b), certain distributions and charges may be made against Buyer's deposits to Seller. These charges under Regulation 2981(b), and the Seller estimates of such charges, are set forth in paragraph 3S.

- 41. **RETENTION OF BUYER DEPOSITS IN THE EVENT OF BUYER DEFAULT:** In the event Seller has used Buyer's deposits pending consummation of this Agreement, Seller shall immediately, upon alleging Buyer's default, transmit to Escrow Holder funds equal to all of Buyer's deposits so used.



**42. LIQUIDATED DAMAGES: IF BUYER FAILS TO COMPLETE THE PURCHASE OF THE PROPERTY BY REASON OF DEFAULT OF BUYER, SELLER MAY PURSUE ANY REMEDY IN LAW OR EQUITY THAT IT MAY HAVE AGAINST BUYER ON ACCOUNT OF THE DEFAULT; PROVIDED, HOWEVER, THAT BY PLACING THEIR INITIALS HERE, BUYER \_\_\_\_\_ / \_\_\_\_\_ AND SELLER \_\_\_\_\_ / \_\_\_\_\_ AGREE THAT:**

**A. THE SUMS PAID ON DEPOSIT PURSUANT TO PARAGRAPHS 4D(1) AND 7A HEREOF PLUS ANY AMOUNTS PAID FOR ADDITIONAL ITEMS, EXTRAS AND/OR CUSTOMER SELECTED MATERIALS ORDERED BY BUYER (“PURCHASE MONEY DEPOSIT”) SHALL CONSTITUTE LIQUIDATED DAMAGES PAYABLE TO SELLER IS BUYER FAILS TO COMPLETE THE PURCHASE OF THE PROPERTY BECAUSE OF A DEFAULT BY BUYER.**

**B. THE PAYMENT OF SUCH LIQUIDATED DAMAGES TO SELLER SHALL CONSTITUTED THE EXCLUSIVE REMEDY OF SELLER ON ACCOUNT OF THE DEFAULT OF BUYER.**

**C. LIQUIDATED DAMAGES SHALL BE PAYABLE TO SELLER OUT OF BUYER’S DEPOSIT TOWARD PURCHASE OF THE PROPERTY ACCORDING TO THE FOLLOWING PROCEDURES:**

**(1) SELLER SHALL GIVE WRITTEN NOTICE (“SELLER’S NOTICE AND DEMAND”), IN THE MANNER PRESCRIBED BY SECTION 116.340 OF THE CODE OF CIVIL PROCEDURE FOR SERVICE IN A SMALL CLAIMS ACTION, TO ESCROW HOLDER AND TO BUYER THAT BUYER IS IN DEFAULT UNDER THE CONTRACT AND THAT SELLER IS DEMANDING THAT ESCROW HOLDER REMIT THE PURCHASE MONEY DEPOSIT TO SELLER AS LIQUIDATED DAMAGES UNLESS, WITHIN 20 DAYS, BUYER GIVES ESCROW HOLDER BUYER’S WRITTEN OBJECTION TO DISBURSEMENT OF PURCHASE MONEY AS LIQUIDATED DAMAGES (“BUYER’S OBJECTION”).**

**(2) BUYER HAS A PERIOD OF 20 DAYS FROM THE DATE OF RECEIPT OF SELLER’S NOTICE AND DEMAND IN WHICH TO GIVE ESCROW HOLDER BUYER’S OBJECTION.**

**(3) IF BUYER FAILS TO GIVE ESCROW HOLDER BUYER’S OBJECTION WITHIN 20 DAYS FROM THE DATE OF RECEIPT OF SELLER’S NOTICE AND DEMAND: (i) ESCROW HOLDER SHALL PROMPTLY REMIT THE AMOUNT DEMANDED TO SELLER; AND (ii) SELLER IS RELEASED FROM ANY OBLIGATION TO SELL THE PROPERTY TO BUYER.**

**(4) IF BUYER GIVES ESCROW HOLDER BUYER’S OBJECTION WITHIN 20 DAYS FROM THE DATE OF RECEIPT OF SELLER’S NOTICE AND DEMAND, THEN THE DETERMINATION AS TO WHETHER SELLER IS ENTITLED TO THE DISBURSEMENT OF PURCHASE MONEY AS LIQUIDATED DAMAGES, AND EVERY OTHER CAUSE OF ACTION THAT HAS ARISEN BETWEEN BUYER AND SELLER UNDER THIS AGREEMENT, SHALL BE DECIDED IN ACCORDANCE WITH PARAGRAPHS 44 AND 45 OF THIS AGREEMENT.**

**(5) IF THE DETERMINATION AS TO WHETHER SELLER IS ENTITLED TO THE DISBURSEMENT OF PURCHASE MONEY AS LIQUIDATED DAMAGES IS REFERRED TO ARBITRATION, ANY FEE TO INITIATE ARBITRATION SHALL BE PAID BY SELLER, BUT THE COST OF ARBITRATION SHALL ULTIMATELY BE BORNE AS DETERMINED BY THE ARBITRATOR.**

**SELLER AGREES TO INDEMNIFY AND HOLD ESCROW HOLDER HARMLESS FROM ANY CLAIM BY BUYER ARISING OUT OF ANY DISTRIBUTIONS MADE BY ESCROW HOLDER IN ACCORDANCE WITH, AND PURSUANT TO, THE PROVISIONS OF THIS PARAGRAPH.**

**REMITTANCE OF THE AFORESAID LIQUIDATED DAMAGES TO SELLER SHALL PRECLUDE ANY RIGHT OF ACTION SELLER MAY HAVE TO CONTEST THE REASONABLENESS OF THE AMOUNT ACTUALLY PAID AS LIQUIDATED DAMAGES OR THE VALIDITY OF THIS LIQUIDATED DAMAGES PROVISION.**

**NOTE: CIVIL CODE SECTION 1675(D) IS APPLICABLE TO THIS PROVISION. SECTION 1675(D) PROVIDES “IF THE AMOUNT ACTUALLY PAID PURSUANT TO THE LIQUIDATED DAMAGES PROVISION EXCEEDS 3 PERCENT OF THE PURCHASE PRICE, THE PROVISION IS INVALID UNLESS THE PARTY SEEKING TO UPHOLD THE PROVISION ESTABLISHES THAT THE AMOUNT ACTUALLY PAID IS REASONABLE AS LIQUIDATED DAMAGES.**

**43. MEDIATION:**

**A. The Parties agree to mediate any dispute or claim arising between them out of this Agreement, or any resulting transaction, before resorting to arbitration or court action. The mediation shall be conducted through the C.A.R. Real Estate Mediation Center for Consumers ([www.consumermediation.org](http://www.consumermediation.org)) or through any other mediation provider or service mutually agreed to by the Parties. The Parties also agree to mediate any disputes or claims with Agent(s), who, in writing, agree to such mediation prior to, or within a reasonable time after, the dispute or claim is presented to the Agent. If, for any dispute or claim to which this paragraph applies, any Party (i) commences an action without first attempting to resolve the matter through mediation, or (ii) before commencement of an action, refuses to mediate after a request has been made, then that Party shall not be entitled to recover attorney fees, even if they would otherwise be available to that Party in any such action. THIS MEDIATION PROVISION APPLIES WHETHER OR NOT THE ARBITRATION PROVISION IS INITIALED.**

The fees necessary to initiate the mediation shall be advanced by Seller, with the costs of the mediation to be borne as determined by the parties. If the parties cannot resolve their dispute through mediation and they proceed to arbitration or court, then the costs of mediation shall be borne as determined by the arbitrator of judge.

**B. ADDITIONAL MEDIATION TERMS: (i) Exclusions from this mediation agreement are specified in paragraph 44B; (ii) The obligation to mediate does not preclude the right of either Party to seek a preservation of rights under paragraph 44C; and (iii) Agent’s rights and obligations are further specified in paragraph 44D. These terms apply even if the Arbitration of Disputes paragraph is not initialed.**



**44. ARBITRATION OF DISPUTES:**

- A. THE PARTIES AGREE THAT ANY CONTROVERSY BETWEEN THEM REGARDING LIQUIDATED DAMAGES, TERMINATION OF THIS AGREEMENT BEFORE CLOSE OF ESCROW, BUYER'S INTEREST IN THE PROPERTY OF OTHER ISSUES WHICH ARISE BEFORE CLOSE OF ESCROW, INCLUDING CONTROVERSY CREATED BY CONFLICTING NOTICES BY BUYER AND SELLER, AND THE DISPOSITION OF FUNDS HELD BY ESCROW HOLDER SHALL BE SETTLED BY ARBITRATION IN ACCORDANCE WITH THE COMMERCIAL ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION, PROVIDED THAT THOSE RULES ARE CONSISTENT WITH THE FOLLOWING REQUIREMENTS:**
  - (1) THE FEES NECESSARY TO INITIATE THE ARBITRATION SHALL BE ADVANCED BY SELLER, WITH COSTS AND FEES (INCLUDING ONGOING COSTS AND FEES) TO BE PAID AS AGREED BY THE PARTIES. IF THE PARTIES CANNOT AGREE ON THE PAYMENT OF SUCH COSTS AND FEES, ALL COSTS AND FEES OF THE ARBITRATION SHALL ULTIMATELY BE BORNE AS DETERMINED BY THE ARBITRATION.
  - (2) THE ARBITRATION SHALL BE ADMINISTERED BY A NEUTRAL AND IMPARTIAL PERSON(S).
  - (3) A NEUTRAL AND IMPARTIAL INDIVIDUAL(S) SHALL BE APPOINTED TO SERVE AS ARBITRATOR(S) WITHIN THE SPECIFIED PERIOD OF TIME, WHICH SHALL IN NO EVENT BE MORE THAN 60 DAYS FROM THE ADMINISTRATOR'S RECEIPT OF A WRITTEN REQUEST FROM A PARTY TO ARBITRATE THE CLAIM OR DISPUTE. THE PROVISIONS OF SECTION 1297.121, OR 1297.124 OF THE CALIFORNIA CODE OF CIVIL PROCEDURE.
  - (4) THE VENUE OF THE ARBITRATION SHALL BE IN THE COUNTY WHERE THE PROPERTY IS LOCATED UNLESS THE BUYER AND SELLER AGREE TO SOME OTHER LOCATION.
  - (5) THE ARBITRATION SHALL BE COMMENCED PROMPTLY AND TIMELY IN ACCORDANCE WITH THE RULES OF ARBITRATION. IF THE RULES OF ARBITRATION DO NOT SPECIFY A DATE BY WHICH THE ARBITRATION MUST COMMENCE, THEN IT SHALL COMMENCE ON A DATE AGREED TO BY THE PARTIES. IF THE PARTIES CANNOT AGREE ON AN ARBITRATION COMMENCEMENT DATE, IT SHALL COMMENCE ON THE DATE DETERMINED BY THE ARBITRATOR(S).
  - (6) THE ARBITRATION SHALL BE CONDUCTED IN ACCORDANCE WITH RULES AND PROCEDURES WHICH ARE REASONABLE AND FAIR TO BUYER AND SELLER. THE AMERICAN ARBITRATION ASSOCIATION COMMERCIAL RULES OF ARBITRATION IN EFFECT AS OF THE DATE OF THIS AGREEMENT SHALL BE DEEMED IN COMPLIANCE WITH THIS REQUIREMENT.
  - (7) THE ARBITRATION SHALL CONCLUDE PROMPTLY AND TIMELY.
  - (8) THE ARBITRATOR(S) ARE AUTHORIZED TO PROVIDE ALL RECOGNIZED REMEDIES AVAILABLE IN LAW OR EQUITY FOR ANY CAUSE OF ACTION THAT IS THE BASIS OF THE ARBITRATION
  - (9) JUDGMENT UPON THE DECISION RENDERED BY THE ARBITRATOR(S) MAY BE ENTERED INTO ANY COURT HAVING PROPER JURISDICTION.
- B. EXCLUSIONS:** The following matters are excluded from mediation and arbitration: (i) any matter that is within the jurisdiction of a probate, small claims or bankruptcy court; (ii) a judicial or non-judicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage or installment land sale contract as defined in Civil Code § 2985; and (iii) an unlawful detainer action.
- C. PRESERVATION OF ACTIONS:** The following shall not constitute a waiver nor violation of the mediation and arbitration provisions: (i) the filing of a court action to preserve a statute of limitations; (ii) the filing of a court action to enable the recording of a notice of pending action, for order of attachment, receivership, injunction, or other provisional remedies; or (iii) the filing of a mechanic's lien.
- D. AGENTS; REFERRAL LICENSEE:** Neither Agents nor Referral Licensee shall not be obligated nor compelled to mediate or arbitrate unless they agree to do so in writing. Any Agent(s) or Referral Licensee participating in mediation or arbitration shall not be deemed a party to this Agreement.
- E. "NOTICE: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY."**

**"WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION TO NEUTRAL ARBITRATION."**

**Buyer's Initials \_\_\_\_\_ / \_\_\_\_\_**

**Seller's Initials \_\_\_\_\_ / \_\_\_\_\_**





Property Address: \_\_\_\_\_ Date: \_\_\_\_\_

**45. OFFER**

- A. EXPIRATION OF OFFER:** This offer shall be deemed revoked and the deposit, if any, shall be returned to Buyer unless by the date and time specified in **paragraph 4C**, the offer is Signed by Seller and a Copy of the Signed offer is Delivered to Buyer or Buyer's Authorized Agent. **Seller has no obligation to respond to an offer made.**
- B.  ENTITY BUYERS:** (Note: If this paragraph is completed, a Representative Capacity Signature Disclosure (C.A.R. Form RCSD) is not required for the Legally Authorized Signers designated below.)
  - (1) One or more Buyers is a trust, corporation, LLC, probate estate, partnership, holding a power of attorney or  Other: \_\_\_\_\_
  - (2) This Agreement is being Signed by a Legally Authorized Signer in a representative capacity and not in an individual capacity. See **paragraph 32** for additional terms.
  - (3) The name(s) of the Legally Authorized Signer(s) is/are: \_\_\_\_\_
  - (4) If a trust, identify Buyer as trustee(s) of the trust or by simplified trust name (ex. John Doe, co-trustee, Jane Doe, co-trustee or Doe Revocable Family Trust). If the entity is a trust or under probate, the following is the full name of the trust or probate case, including case #: \_\_\_\_\_

**C.** The **NCPA** has **18** pages. Buyer acknowledges receipt of, and has read and understands, every page and all attachments that make up the Agreement.

**D. BUYER SIGNATURE(S):**

(Signature) By, \_\_\_\_\_ **Date:** \_\_\_\_\_  
 Printed name of BUYER: \_\_\_\_\_  
 Printed Name of Legally Authorized Signer: \_\_\_\_\_ Title, if applicable, \_\_\_\_\_  
 (Signature) By, \_\_\_\_\_ **Date:** \_\_\_\_\_  
 Printed name of BUYER: \_\_\_\_\_  
 Printed Name of Legally Authorized Signer: \_\_\_\_\_ Title, if applicable, \_\_\_\_\_  
 IF MORE THAN TWO SIGNERS, USE Additional Signature Addendum (C.A.R. Form ASA).

**46. ACCEPTANCE**

- A. ACCEPTANCE OF OFFER:** Seller warrants that Seller is the owner of the Property or has the authority to execute this Agreement. Seller accepts the above offer and agrees to sell the Property on the above terms and conditions. Seller has read and acknowledges receipt of a Copy of this Agreement and authorizes Agent to Deliver a Signed Copy to Buyer.  
**Seller's acceptance is subject to the attached Counter Offer or Back-Up Offer Addendum, or both, checked below.**  
 Seller shall return and include the entire agreement with any response.  
 **Seller Counter Offer** (C.A.R. Form SCO or SMCO)  
 **Back-Up Offer Addendum** (C.A.R. Form BUO)

**Note to Seller: For property sold subject to a public report you must submit to, and have approval for use from, the DRE for any counter offer or back-up addendum you intend to use with this Agreement.**

- B.  Entity Sellers:** (Note: If this paragraph is completed, a Representative Capacity Signature Disclosure form (C.A.R. Form RCSD) is not required for the Legally Authorized Signers designated below.)
  - (1) One or more Sellers is a trust, corporation, LLC, probate estate, partnership, holding a power of attorney or  Other \_\_\_\_\_
  - (2) This Agreement is being Signed by a Legally Authorized Signer in a representative capacity and not in an individual capacity. See **paragraph 32** for additional terms.
  - (3) The name(s) of the Legally Authorized Signer(s) is/are: \_\_\_\_\_
  - (4) If a trust, identify Seller as trustee(s) of the trust or by simplified trust name (ex. John Doe, co-trustee, Jane Doe, co-trustee or Doe Revocable Family Trust). If the entity is a trust or under probate, the following is the full name of the trust or probate case, including case #: \_\_\_\_\_

**C.** The **NCPA** has **18** pages. Seller acknowledges receipt of, and has read and understands, every page and all attachments that make up the Agreement.

**D. SELLER SIGNATURE(S):**

(Signature) By, \_\_\_\_\_ **Date:** \_\_\_\_\_  
 Printed name of SELLER: \_\_\_\_\_  
 Printed Name of Legally Authorized Signer: \_\_\_\_\_ Title, if applicable, \_\_\_\_\_  
 (Signature) By, \_\_\_\_\_ **Date:** \_\_\_\_\_  
 Printed name of SELLER: \_\_\_\_\_  
 Printed Name of Legally Authorized Signer: \_\_\_\_\_ Title, if applicable, \_\_\_\_\_  
 IF MORE THAN TWO SIGNERS, USE Additional Signature Addendum (C.A.R. Form ASA).

**OFFER NOT ACCEPTED:** \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_ No Counter Offer is being made. This offer was not accepted by Seller \_\_\_\_\_ (date)  
 Seller's Initials



**REAL ESTATE BROKERS SECTION:**

- 1. **Real Estate Agents are not parties to the Agreement between Buyer and Seller.**
- 2. **Agency relationships are confirmed as stated in paragraph 3.**
- 3. **Cooperating Broker Compensation:** Seller's Broker agrees to pay Buyer's Broker and Buyer's Broker agrees to accept, out of Seller's Broker's proceeds in escrow, the amount specified in the MLS, provided Buyer's Broker is a Participant of the MLS in which the Property is offered for sale or a reciprocal MLS. If Seller's Broker and Buyer's Broker are not both Participants of the MLS, or a reciprocal MLS, in which the Property is offered for sale, then compensation must be specified in a separate written agreement (C.A.R. Form CBC). Declaration of License and Tax (C.A.R. Form DLT) may be used to document that tax reporting will be required or that an exemption exists.
- 4. **Presentation of Offer:** Pursuant to the National Association of REALTORS® Standard of Practice 1-7, if Buyer's Agent makes a written request, Seller's Agent shall confirm in writing that this offer has been presented to Seller.
- 5. **Agents' Signatures and designated electronic delivery address:**

**A. Buyer's Brokerage Firm** \_\_\_\_\_ Lic. # \_\_\_\_\_

By \_\_\_\_\_ Lic. # \_\_\_\_\_ Date \_\_\_\_\_

By \_\_\_\_\_ Lic. # \_\_\_\_\_ Date \_\_\_\_\_

More than one agent from the same firm represents Buyer. Additional Agent Acknowledgement (C.A.R. Form AAA) attached.

More than one brokerage firm represents Buyer. Additional Broker Acknowledgement (C.A.R. Form ABA) attached.

**Designated Electronic Delivery Address(es):**

Email \_\_\_\_\_ Text # \_\_\_\_\_

Alternate: \_\_\_\_\_

if checked, Delivery shall be made to the alternate designated electronic delivery address only.

Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

**B. Seller's Brokerage Firm** \_\_\_\_\_ Lic. # \_\_\_\_\_

By \_\_\_\_\_ Lic. # \_\_\_\_\_ Date \_\_\_\_\_

By \_\_\_\_\_ Lic. # \_\_\_\_\_ Date \_\_\_\_\_

More than one agent from the same firm represents Seller. Additional Agent Acknowledgement (C.A.R. Form AAA) attached.

More than one brokerage firm represents Seller. Additional Broker Acknowledgement (C.A.R. Form ABA) attached.

**Designated Electronic Delivery Address(es):**

Email \_\_\_\_\_ Text # \_\_\_\_\_

Alternate: \_\_\_\_\_

if checked, Delivery shall be made to the alternate designated electronic delivery address only.

Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

**ESCROW HOLDER ACKNOWLEDGMENT:**

Escrow Holder acknowledges receipt of a Copy of this Agreement, (if checked,  a deposit in the amount of \$ \_\_\_\_\_), Counter Offer numbers \_\_\_\_\_ and \_\_\_\_\_, and agrees to act as Escrow Holder subject to **paragraph 22** of this Agreement, any supplemental escrow instructions and the terms of Escrow Holder's general provisions.

Escrow Holder is advised by \_\_\_\_\_ that the date of Acceptance of the Agreement is \_\_\_\_\_

Escrow Holder \_\_\_\_\_ Escrow # \_\_\_\_\_

By \_\_\_\_\_ Date \_\_\_\_\_

Address \_\_\_\_\_

Phone/Fax/E-mail \_\_\_\_\_

Escrow Holder has the following license number # \_\_\_\_\_

Department of Financial Protection and Innovation,  Department of Insurance,  Department of Real Estate.

**PRESENTATION OF OFFER:** \_\_\_\_\_ / \_\_\_\_\_ Seller's Brokerage Firm presented this offer to Seller on \_\_\_\_\_ (date).  
Broker or Designee Initials

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