

WACHOVIA MORTGAGE

(A division of Wells Fargo, Bank, N.A.)

CALIFORNIA REAL ESTATE PURCHASE CONTRACT AND RECEIPT FOR DEPOSIT

THIS IS INTENDED TO BE A LEGALLY BINDING CONTRACT
AND MUST BE READ CAREFULLY
(ONE-TO-FOUR UNIT RESIDENTIAL PROPERTY)

DATE: _____, _____, California
 RECEIVED FROM _____ ("Buyer")
 A DEPOSIT OF _____ Dollars \$ _____
 , REMITTED TO WELLS FARGO BANK, N.A., SUCCESSOR BY MERGER WITH WACHOVIA MORTGAGE, FSB ("Seller"), TOWARD
 THE TOTAL PURCHASE PRICE OF _____ Dollars \$ _____,
 FOR PURCHASE OF PROPERTY DESCRIBED AS _____,
 SITUATED IN _____, COUNTY OF _____, California ("Property").

This Real Estate Purchase Contract and Receipt for Deposit ("Contract") is subject to the following terms and conditions:

1. FINANCIAL TERMS AND LOAN PROVISIONS.

- A. INITIAL EARNEST MONEY DEPOSIT by Personal Check or _____ made payable to _____ which will not be cashed or otherwise negotiated until Acceptance (as defined in paragraph 27(A) below)..... \$ _____
- B. INCREASED EARNEST MONEY DEPOSIT to be placed in escrow within _____ calendar days after Acceptance..... \$ _____
- C. BALANCE OF DOWN PAYMENT (not including closing costs and expenses) to be deposited into escrow within sufficient time to close escrow..... \$ _____
 Buyer represents that the funds required under A, B and C are available currently, and obtaining these funds is not a condition to Buyer's obligation to purchase.
 ALL CASH OFFER: If the total of A, B and C equals the Total Purchase Price, then Buyer shall provide to Seller, within _____ calendar days after Acceptance, written verification of sufficient funds to close this transaction. If Buyer fails to provide the verification, or if Seller reasonably disapproves the verification within _____ calendar days of receipt thereof, Seller may cancel this Contract.
- D. NEW FIRST LOAN FROM INSTITUTIONAL LENDER IN THE AMOUNT OF..... \$ _____
 - (1) Promissory note secured by first-lien deed of trust, payable to _____ ("Lender") with initial monthly payments of approximately \$ _____, not including taxes, insurance or mortgage insurance, with a maximum interest rate of _____% fixed rate or _____% adjustable rate, with a _____ year loan maturity; Buyer to pay loan fees of _____ and loan origination points of _____.
 SELLER AS LENDER: If the Lender is Seller, the promissory note and deed of trust shall contain all Seller's customary terms for similar loans, including without limitation, a due on sale clause. Seller is hereby authorized to investigate Buyer's credit history and verify all information contained in Buyer's loan application.
 - (2) FHA/VA: _____
 - (3) ADDITIONAL FINANCING TERMS: _____
 - (4) FINANCING CONTINGENCY: Obtaining the new first loan described above is a contingency of this Contract. Within _____ calendar days after Acceptance, Buyer will submit a completed loan application to Lender on Lender's standard forms. Within _____ calendar days after Acceptance, Buyer shall obtain Lender's written unconditional approval for the new first loan. If Buyer fails for any reason to obtain such loan approval, either party may cancel this Contract. Buyer shall act diligently and in good faith to obtain the specified financing. Obtaining financing for closing costs is not a contingency to Buyer's obligation to purchase.
- E. TOTAL PURCHASE PRICE (not including closing or financing costs)..... \$ _____

2. ALLOCATION OF TRANSFER TAXES/FEES. If not checked below, Buyer agrees to pay.

- A. County transfer tax or transfer fee to be paid by Buyer Seller.
- B. City transfer tax or transfer fee to be paid by Buyer Seller.
- C. Homeowner's association transfer fee to be paid by Buyer Seller.

3. ESCROW.

- A. ESCROW FEES; ESCROW HOLDER. Escrow fees will be paid by Buyer Seller, which party shall have the right to select a mutually satisfactory escrow holder for this transaction ("Escrow Holder"). Unless otherwise specified in writing, the Escrow Holder will be _____.
 Escrow Holder may not require Buyer's use of a particular title insurance company.
- B. OPENING ESCROW. Upon Acceptance, Seller or its agent will open escrow with the Escrow Holder by delivering this Contract to Escrow Holder. Unless otherwise agreed in writing, Seller may cash or otherwise negotiate Buyer's initial earnest money deposit and hold such deposit outside of escrow.

Buyer and Seller acknowledge receipt of copy of this page, which constitutes Page 1 of 7 Pages.

Buyer's Initials (_____) (_____) Seller's Initials (_____) (_____)

C. ESCROW INSTRUCTIONS. This Contract, together with any addenda executed by Buyer and Seller in connection with it, will constitute joint escrow instructions to Escrow Holder. The parties will execute additional instructions consistent with this Contract as requested by Escrow Holder. Escrow instructions may include matters required to close this transaction which are not covered by this Contract. The omission from escrow instructions of any provision of this Contract will not constitute a waiver of the provision of the contractual rights or obligations of any party. Any change in terms or provisions of this Contract requires the mutual, written consent of Buyer and Seller. Any earnest money deposits placed into escrow shall be held as a good faith deposit toward the completion of this transaction. If the parties have elected liquidated damages by initialing paragraph 15 below and Seller exercises its right to cancel this Contract pursuant to Buyer's default, the Escrow Holder shall release and deliver to Seller all deposits in escrow upon receipt of release instructions signed only by Seller, without any consent of Buyer required. Any other release of Buyer's deposits requires mutual release instructions signed by both Buyer and Seller, a judicial decision, or an arbitration award.

4. TITLE INSURANCE.

A. TITLE INSURANCE COMPANY. Based upon prior title services performed in connection with the Property, _____ ("Title Company") may offer title insurance on the Property at a reduced premium rate. Seller recommends that Buyer compare title insurance companies to determine whether Title Company is offering a competitive rate and whether Title Company is satisfactory to Buyer. Buyer may select the title insurance company of its choice to issue title insurance on the Property; provided, however, if Seller is the lender for Buyer's new first loan, the title insurance company must be satisfactory to Seller. Buyer will not be penalized in any way for selecting a title insurance company other than Title Company. Buyer selects Title Company or _____ to issue the title insurance policy(ies).

B. ALLOCATION OF TITLE INSURANCE COSTS.

- (1) The homeowner's (CLTA) title insurance policy will be paid by Buyer Seller.
- (2) The lender's (ALTA) title insurance policy will be paid by Buyer Seller.

5. PRORATIONS. All real property taxes, assessments (regular, special or otherwise), interest, rents, homeowners' association dues and assessments (regular, special or otherwise), premiums on insurance assumed by Buyer, and all other expenses of the Property (including without limitation payments on Mello-Roos and other special assessment district bonds and assessments which are secured against the Property), shall be paid current and prorated between Buyer and Seller, as of the date the escrow closes. Payments that are not yet due and all bond, assessment district and other balances are to be assumed by Buyer WITHOUT CREDIT toward the purchase price.

6. CLOSING. Escrow will close within _____ days after Acceptance, or on _____ [date]. Closing extensions are not contemplated by the parties as of the date of this Contract. Buyer must make any extension request in writing prior to the date escrow is to close, and Seller must approve such extension, in its sole discretion, in writing. If the escrow does not close on time by reason of any default of Buyer, Seller may cancel this Contract. Buyer acknowledges that "good funds" (such as cash, wire transfers, and cashier's or certified checks drawn on California depositories) are required to close escrow; and that out-of-state checks and all drafts are subject to waiting periods and do not constitute "good funds" until the money is physically transferred to Escrow Holder's account, which can delay the close of escrow.

7. TITLE AND VESTING.

A. PRELIMINARY REPORT. Buyer will be provided a current preliminary (title) report from the Title Company. Buyer acknowledges that a preliminary report may not contain every item affecting title. Title Company can provide information, at Buyer's request, about the availability and desirability of various title insurance coverages.

B. TITLE REVIEW PERIOD. Buyer may disapprove in writing, within five (5) calendar days after receipt of the preliminary report, any exceptions to title shown in the preliminary report. If Buyer fails to notify Seller of any disapproval of exceptions within the title review period, then Buyer shall be deemed to have accepted all exceptions to title shown in the preliminary report. If Buyer notifies Seller of disapproval of any exception within the title review period, then Seller shall have five (5) calendar days after receipt of Buyer's disapproval to notify Buyer, in Seller's sole discretion, whether Seller will remove such disapproved exception prior to the close of escrow. If Seller elects not to remove any disapproved exception, whether by giving notice thereof or failing to give notice, Seller shall be deemed to have canceled this Contract. The exceptions to title approved by Buyer as provided in this paragraph 7(B) are collectively referred to herein as the "Permitted Exceptions."

C. TITLE. Title shall be free of liens except for encumbrances, easements, covenants, conditions, restrictions, rights, and other matters, which are either (i) Permitted Exceptions; or (ii) disclosed to, or discovered by, Buyer prior to close of escrow, unless objected to by Buyer in writing within five (5) calendar days after such disclosure or discovery or prior to closing, whichever is earlier. If Buyer objects to a matter affecting title under (ii), and Seller is unable or unwilling to remove such matter, either party may cancel this Contract. Title will be evidenced by a standard coverage CLTA owner's title insurance policy, and shall be conveyed by Seller to Buyer by grant deed.

D. VESTING. Unless otherwise agreed in writing, title will vest in Buyer's name. How Buyer takes title may have significant legal and tax consequences. Buyer may desire to obtain legal and/or tax advice in considering this matter.

8. OCCUPANCY. Buyer does does not intend to occupy the Property as Buyer's primary residence.

9. POSSESSION. Seller shall deliver possession and occupancy of the Property to Buyer on the date of close of escrow, no later than _____ days after the date of close of escrow, or on _____. The Property will be delivered vacant unless otherwise agreed in writing. If, prior to the close of escrow, Seller notifies Buyer it will be unable to deliver the Property vacant, Buyer may cancel this Contract within five (5) calendar days after receipt of such notice or prior to the close of escrow, whichever is earlier, and Seller's inability to deliver the Property vacant shall not be deemed a breach of this Contract. If Buyer accepts the Property occupied, Buyer takes the Property subject to any applicable rent, vacancy or occupancy control, which are matters to be investigated by Buyer as provided in paragraph 10(E)(6) below.

Buyer and Seller acknowledge receipt of copy of this page, which constitutes Page 2 of 7 Pages.

Buyer's Initials (_____) (_____) Seller's Initials (_____) (_____)

10. "AS-IS" SALE.

- A. PROPERTY BEING SOLD "AS-IS" AND WITHOUT WARRANTY. The Property is not new and neither Seller nor Seller's agents, in any manner express or implied, warrants the condition of the Property, which is to be sold in its present, "AS-IS" condition. Buyer acknowledges that Seller obtained the Property either through foreclosure or from a relocated employee, and that Seller has not occupied the Property. Unless otherwise agreed in writing, Seller shall deliver the Property (including any pool/spa, landscaping, or grounds) in substantially the same condition as that which exists at the end of Buyer's inspection period as set forth in paragraph 10(D).
- B. BUYER'S INVESTIGATION INTO THE PROPERTY'S CONDITION. Buyer agrees to conduct a timely personal inspection of the entire Property, including without limitation all improvements and systems on the Property and all Property conditions disclosed under paragraph 11 below. Buyer also agrees to obtain, at Buyer's discretion and sole expense, timely inspection reports from qualified experts as to the entire Property and applicable systems, including, but not limited to, pest, roof, plumbing, electrical, appliances, sewer, soil conditions, foundation, heating, air conditioning, structural, and pool reports. Unless otherwise disclosed in writing, Seller shall have water, gas, and electricity on for Buyer's inspections. Buyer acknowledges and agrees that Buyer is not relying upon Seller or its agents as to the condition of the Property or the improvements or systems on the Property, nor is Buyer relying upon Seller or its agents to investigate and report on any condition of the Property or the improvements or the systems on the Property. Buyer agrees to rely exclusively upon Buyer's own inspections and experts as to any condition of the Property or the improvements or systems on the Property.
- C. **FHA/VA FINANCING.** If this Contract is contingent upon FHA or VA financing, notwithstanding anything to the contrary in paragraph 10(B), Seller shall pay for the following inspection reports required as part of FHA or VA (but not conventional) financing to the extent allowed by applicable FHA or VA regulations: _____
 FHA requires Buyer to sign the "Importance of Home Inspections" Notice on or before the date Buyer executes this Contract.
- D. INSPECTION PERIOD. Buyer agrees to complete all inspections and to obtain all inspection reports within _____ calendar days after Acceptance, which Buyer agrees is a reasonable inspection period. Seller agrees to permit Buyer and its representatives reasonable access to the Property during the inspection period for the purpose of conducting inspections; provided, however, that no governmental building or zoning inspector or government employee shall conduct or accompany any inspection without Seller's prior written consent, except as otherwise required by law. **Unless Buyer notifies Seller in writing prior to the expiration of the inspection period that the Property or the condition of the Property's improvements or systems is unacceptable, which notice shall cancel this Contract, Buyer agrees to accept the Property "AS-IS."** Buyer shall keep the Property free and clear of liens, indemnify and hold Seller harmless from all liability, claims, demands, damages and costs, and repair all damages arising from Buyer's inspections. Buyer shall provide Seller upon Seller's request, at no cost to Seller, complete copies of all inspection reports obtained by Buyer concerning the Property, its improvements and systems.
- E. BUYER'S DUTY. BUYER UNDERSTANDS THAT CONDITIONS AND DEFECTS ARE OFTEN DIFFICULT TO LOCATE AND DISCOVER, AND THAT ALL REAL PROPERTY AND IMPROVEMENTS CONTAIN DEFECTS AND CONDITIONS WHICH ARE NOT READILY APPARENT AND WHICH MAY AFFECT THE VALUE AND DESIRABILITY OF THE PROPERTY. BUYER IS AWARE OF BUYER'S AFFIRMATIVE DUTY TO EXERCISE REASONABLE CARE TO PROTECT HIMSELF, INCLUDING THOSE FACTS WHICH ARE KNOWN TO OR WITHIN THE DILIGENT ATTENTION AND OBSERVATION OF THE BUYER (Civil Code §2079.5). BUYER IS STRONGLY ADVISED TO INVESTIGATE THE CONDITION AND SUITABILITY OF ALL ASPECTS OF THE PROPERTY DURING THE INSPECTION PERIOD, INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING:
 - (1) CONDITION OF SYSTEMS AND COMPONENTS: Built-in appliances, foundation, roof, plumbing, heating, air conditioning, electrical, mechanical, security, pool/spa, and other structural and non-structural systems and components, any personal property included in the sale, and energy efficiency of the Property.
 - (2) SIZE AND AGE: Square footage, room dimensions, lot size, and age of the improvements on the Property. Without limiting the generality of any portion of this paragraph 10, Buyer understands and agrees that (a) any statements regarding these items are approximations only, (b) Seller and Seller's agents have not and will not verify these items, and (c) Buyer should not rely on any statements regarding these items.
 - (3) LINES AND BOUNDARIES: Property lines and boundaries. Fences, hedges, walls, and other natural or constructed barriers or markers do not necessarily identify the true property boundaries. Buyer may verify the lines and boundaries by survey.
 - (4) WASTE; DISPOSAL: Type, size, adequacy, capacity, and condition of sewer and septic systems and components should be checked. The Property may not be connected to sewer lines and/or applicable fees may not have been paid. Septic tank may need to be pumped and leach field may need to be inspected.
 - (5) GOVERNMENTAL REQUIREMENTS AND LIMITATIONS: Possible absence of required governmental permits, inspections, certificates, or other determinations affecting the current or future use of the Property. The zoning, building, development, permit and other requirements affecting the use of the Property. The possible maintenance requirements or use restrictions affecting the Property on account of a condition as disclosed under paragraph 11 below.
 - (6) RENT AND OCCUPANCY CONTROL: Some cities and counties impose restrictions which may limit the amount of rent that can be charged, and/or the maximum number of persons who can lawfully occupy the property.
 - (7) WATER AND UTILITIES; WELL SYSTEMS AND COMPONENTS: Water and utility availability and use restrictions. Adequacy, condition and performance of well systems and components.
 - (8) ENVIRONMENTAL HAZARDS: Potential environmental hazards including asbestos, formaldehyde, radon, methane, other gases, lead-based paint, other lead contamination, fuel or chemical storage tanks, contaminated soil or water, hazardous waste, waste disposal sites, electromagnetic fields, nuclear sources, mold, mildew and other substances, material, products, or conditions.

Buyer and Seller acknowledge receipt of copy of this page, which constitutes Page 3 of 7 Pages.

Buyer's Initials (_____) (_____) Seller's Initials (_____) (_____)

- (9) LEAD-BASED PAINT: Testing for possible presence of lead in paint, dust, soil, water, and/or any other areas in or around the Property.
- (10) GEOLOGICAL CONDITIONS: Geologic/Seismic conditions, soil and terrain stability, suitability and drainage.
- (11) NEIGHBORHOOD; PERSONAL FACTORS: Neighborhood or area conditions including schools, proximity and adequacy of law enforcement, proximity to commercial, industrial, or agricultural activities, crime statistics, presence of registered sex offenders, fire protection, other governmental services, existing and proposed transportation, construction and development which may affect noise, view, or traffic, airport noise, noise or odor from any source, wild and domestic animals, and other nuisances, hazards or circumstances. Conditions and influences of significance to certain cultures and/or religions, and personal needs, requirements, and preferences of Buyer.
- (12) COMMON INTEREST DEVELOPMENT; HOMEOWNER'S ASSOCIATION: The condition of the facilities and common areas of the condominium, planned unit development or other projects having common areas. The adequacy of the reserves of the homeowner's association for replacements and repairs. The affect of any pending litigation brought by or against the homeowner's association.

11. **PROPERTY DISCLOSURES.** Buyer acknowledges having received and read each disclosure indicated below. Buyer has the right to investigate any such disclosure as provided in paragraph 10(B) above. Buyer has the right to disapprove any such disclosure, and thereby cancel this Contract, as provided in paragraph 10(D) above. Failure to disapprove any disclosure in the manner and within the time provided in paragraph 10(D) shall constitute Buyer's acceptance of the facts and conditions disclosed.

- A. LEAD-BASED PAINT. If checked, the Property is residential property constructed prior to 1978. Buyer and Seller are required to sign a lead-based paint disclosure addendum.
- B. WINDOW SECURITY BARS. If checked, the Property has window security bars, which do do not have safety release mechanisms. Seller does not represent or warrant that any safety release mechanisms are operable or meet current state and local requirements for such mechanisms.
- C. NATURAL HAZARDS. Seller or its agent has actual knowledge, or a parcel list or map indicates, that the Property is in the natural hazard zone(s) or area(s) checked below (if Seller acquired the Property from a relocated employee, all natural hazard disclosures will be made in a separate Natural Hazard Disclosure Statement described in paragraph 11 (F) below):
 - special flood hazard area designated by the Federal Emergency Management Agency;
 - area of potential flooding shown on an inundation map designated pursuant to Government Code Section 8589.5;
 - very high fire severity zone designated pursuant to Government Code, Title 5, Division 1, Part 1, Chapter 6.8, and the owner of the Property is subject to the maintenance requirements of Government Code Section 51182;
 - wildland area which may contain substantial forest fire risks and hazards as determined pursuant to Public Resources Code Section 4125, and the owner of the Property is subject to the maintenance requirement of Public Resources Code Section 4291, and the State is not responsible for providing fire protection services to any building or structure located within the wildlands unless the Department of Forestry and Fire Protection has entered into a cooperative agreement with a local agency for those purposes pursuant to Public Resources Code Section 4142;
 - earthquake fault zone delineated pursuant to Public Resources Code Section 2622; and/or
 - seismic hazard zone designated pursuant to Public Resources Code, Division 2, Chapter 7.8.
- D. INFORMATIONAL GUIDES. Borrower received the following informational guide(s) or booklet(s):
 - "Protect Your Family From Lead In Your Home"
 - "Homeowner's Guide to Earthquake Safety"
 - "Commercial Guide to Earthquake Safety"
 - "Environmental Hazards: Guide For Homeowners and Buyers"
 - Home energy rating booklet
- E. COMMON INTEREST DEVELOPMENT. If checked, the Property is a unit in a condominium project, planned unit development, or other common interest subdivision with common areas. Seller, at its own expense, obtained and provided Buyer with the homeowner's association management documents and other information required by Civil Code Section 1368. Buyer understands that the documents were prepared and provided by the homeowner's association, and Seller makes no warranties as to the accuracy or completeness of the information contained in such documents. Buyer, therefore, agrees to inspect the documents, the homeowner's association and the common interest development, including, but not limited to, any age restrictions stated in the governing documents, pending regular or special assessments, pending claims or litigation, and the location and number of the Property's parking and storage spaces.
- F. EMPLOYEE RELOCATION PROPERTY. If checked, Seller acquired the Property from a relocated employee and provided Buyer with a **Real Estate Transfer Disclosure Statement ("TDS")** prepared by the relocated employee. Buyer also received the following additional disclosure(s):
 - Local Option Supplement to the TDS;
 - Mello-Roos Community Facilities District "Notice of Special Tax" levies on the Property;
 - Residential Earthquake Hazards Report prepared by the relocated employee;
 - Natural Hazard Disclosure Statement ("NHDS"); and/or
 - Notice: Seller has actual knowledge that the Property is within one (1) mile of a state or federally designated area once used for military training which may contain potentially explosive munitions.

Unless a disclosure or an amendment to a disclosure described in this paragraph 11(F) is delivered by Seller or its agent to Buyer in person at least three (3) calendar days, or by deposit in the mail at least five (5) calendar days, before the end of the inspection period set forth in paragraph 10(D), Buyer may cancel this Contract within three (3) calendar days after delivery in person, or five (5) calendar days after delivery by deposit in the mail, of such disclosure or amended disclosure.

Buyer and Seller acknowledge receipt of copy of this page, which constitutes Page 4 of 7 Pages.

Buyer's Initials (_____) (_____) Seller's Initials (_____) (_____)

G. OTHER DISCLOSURES/REPORTS.

H. NOTICE: Pursuant to Section 290.46 of the Penal Code, information about specified registered sex offenders is made available to 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.

12. SAFETY CERTIFICATIONS.

A. SMOKE DETECTORS. Health and Safety Code Section 13113.8 requires that every single-family dwelling sold shall have an operable smoke detector. The detector must be approved and listed by, and installed in accordance with the regulations of, the State Fire Marshal. Upon Acceptance, Seller certifies the single-family dwelling has, or as of close of escrow shall have, an operable smoke detector in compliance with this law and applicable local ordinances.

B. WATER HEATERS. Health and Safety Code Section 19211 requires that all residential water heaters be braced, anchored, or strapped to resist falling or horizontal displacement due to earthquake motion. At a minimum, the water heater must be secured in accordance with the California Plumbing Code or local modifications to this code. Upon Acceptance, Seller certifies that all water heaters on the Property are, or as of close of escrow will be, braced, anchored or strapped in accordance with this law and applicable codes.

13. CANCELING THIS CONTRACT/ESCROW. A party with the right to cancel this Contract under the terms of this Contract may cancel this Contract only by furnishing the other party with written notice of cancellation within any applicable cancellation period. Cancellation of this Contract cancels the sale of the Property. If Buyer duly cancels this Contract, or if Seller duly cancels this Contract for any reason other than Buyer's breach hereof, Buyer's deposits, less any applicable costs and fees, will be returned to Buyer. Fees and costs may be payable to service providers and vendors for services and products provided during escrow. If Seller duly cancels this Contract by reason of Buyer's breach of this Contract, Seller shall have the rights and remedies described in paragraph 15 below. Except as otherwise provided in paragraph 3(C) above, Buyer and Seller must sign mutual escrow instructions to cancel the escrow and release deposits. A party may be subject to a civil penalty of up to \$1,000 for refusal to sign such instructions, if no good faith dispute exists as to who is entitled to the deposited funds (Civil Code §1057.3).

14. EQUAL HOUSING OPPORTUNITY. The Property is sold in compliance with federal, state, and local anti-discrimination laws

15. BUYER'S PERFORMANCE; LIQUIDATED DAMAGES (Only if both parties initial). Buyer understands and agrees that all of Buyer's obligations called for in this Contract must be performed by the date specified for each obligation. If Buyer defaults in the performance of any obligation under this Contract, or if Buyer otherwise fails to complete the purchase of the Property as provided in this Contract, and Seller duly cancels this Contract, Seller shall be released from the obligation to sell the Property to Buyer and may proceed against Buyer upon any claim and seek any damages or remedies which Seller may have in law or equity. **HOWEVER, BY PLACING THEIR INITIALS HERE, BUYER (_____) (_____) AND SELLER (_____) (_____) AGREE THAT, IF BUYER FAILS TO COMPLETE THE PURCHASE OF THE PROPERTY BY REASON OF ANY DEFAULT OF BUYER, SELLER SHALL RETAIN, AS LIQUIDATED DAMAGES FOR BREACH OF CONTRACT, THE INITIAL AND ANY INCREASED EARNEST MONEY DEPOSITS. If the Property is a dwelling with no more than four (4) residential units, one of which Buyer intends to occupy as a residence, Seller shall retain as liquidated damages no more than three (3%) of the purchase price, or the deposit actually paid, whichever is less, and promptly return any excess to Buyer. At the time of any increase in deposit, Buyer and Seller will execute a receipt of deposit that reiterates the liquidated damages provision. Buyer agrees that, after all contingencies in this Contract, including without limitation any financing contingency, have been removed or otherwise accepted, Buyer's deposits are non-refundable subject to any limitations described above.**

16. ARBITRATION OF DISPUTES (Only if both parties initial). ANY DISPUTE OR CLAIM IN LAW OR EQUITY ARISING OUT OF THIS CONTRACT OR ANY RESULTING TRANSACTION SHALL BE DECIDED BY NEUTRAL BINDING ARBITRATION IN ACCORDANCE WITH PART 3, TITLE 9, OF THE CODE OF CIVIL PROCEDURE, AND NOT BY COURT ACTION, EXCEPT AS PROVIDED BY CALIFORNIA LAW FOR JUDICIAL REVIEW OF ARBITRATION PROCEEDINGS. JUDGMENT UPON THE AWARD RENDERED BY THE ARBITRATOR MAY BE ENTERED IN ANY COURT. THE ARBITRATOR SHALL BE A RETIRED SUPERIOR COURT JUDGE OR A LICENSED CALIFORNIA ATTORNEY, OR ANY OTHER PERSON OR ENTITY MUTUALLY AGREEABLE TO THE PARTIES. THE LOSING PARTY SHALL PAY THE ARBITRATOR'S FEES. IN THE EVENT OF A DISAGREEMENT AS TO THE SELECTION OF AN ARBITRATOR, THE PRESIDING JUDGE OF THE SUPERIOR COURT HAVING JURISDICTION TO ENFORCE THE ARBITRATION AWARD SHALL SELECT THE ARBITRATOR. THE FOLLOWING MATTERS ARE EXCLUDED FROM ARBITRATION HEREUNDER: (a) A JUDICIAL OR NONJUDICIAL FORECLOSURE OR OTHER ACTION OR PROCEEDING TO ENFORCE A DEED TRUST, MORTGAGE, OR REAL PROPERTY SALES CONTRACT AS DEFINED IN CIVIL CODE §2985; (b) AN UNLAWFUL DETAINER ACTION; (c) THE FILING OR ENFORCEMENT OF A MECHANIC'S LIEN; (d) ANY MATTER WHICH IS WITHIN THE JURISDICTION OF A PROBATE COURT OR SMALL CLAIMS COURT; (e) AN ACTION FOR BODILY INJURY OR WRONGFUL DEATH, OR FOR LATENT OR PATENT DEFECT TO WHICH CODE OF CIVIL PROCEDURE §337.1 OR §337.15 APPLIES; (f) ANY MATTER IN WHICH THE AMOUNT IN CONTROVERSY OR THE AGGREGATE AMOUNT OF COMPENSATORY DAMAGES CLAIMED BY ALL PARTIES (EXCLUSIVE OF ANY FEES OR COSTS SOUGHT OR AWARDED PURSUANT TO PARAGRAPH 17 BELOW) EXCEEDS THE TOTAL PURCHASE PRICE SET FORTH IN PARAGRAPH 1(E) ABOVE; OR (g) ANY MATTER IN WHICH PUNITIVE DAMAGES ARE SOUGHT BY ANY PARTY. THE FILING OF A JUDICIAL ACTION TO ENABLE THE RECORDING OF A NOTICE OF PENDING ACTION, FOR ORDER OR ATTACHMENT, RECEIVERSHIP, INJUNCTION, OR OTHER PROVISIONAL REMEDIES, SHALL NOT CONSTITUTE A WAIVER OF THE RIGHT TO ARBITRATE UNDER THIS PROVISION. ANY DISPUTE OR CLAIM BY OR AGAINST A REAL ESTATE BROKER AND ANY ASSOCIATE BROKER OR SALESPERSON PARTICIPATING IN THIS TRANSACTION SHALL ONLY BE SUBMITTED TO ARBITRATION CONSISTENT WITH THIS PROVISION IF THE BROKER OR ASSOCIATE MAKING THE CLAIM OR AGAINST WHOM THAT CLAIM IS MADE HAS AGREED IN WRITING TO SUBMIT THE MATTER TO ARBITRATION.

Buyer and Seller acknowledge receipt of copy of this page, which constitutes Page 5 of 7 Pages.

Buyer's Initials (_____) (_____) Seller's Initials (_____) (_____)

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:** (____) (____)

- 17. ATTORNEYS' FEES.** If either party commences an action against the other to enforce this Contract or because of the breach by either party of this Contract, the prevailing party in this action shall be entitled to recover reasonable attorneys' fees, costs, and expenses incurred in connection with the prosecution or defense of this action, including any appeal, in addition to all other relief. "Prevailing party" shall include without limitation: (a) a party who dismisses an action in exchange for sums allegedly due; (b) the party that receives performance from the other party of alleged breach of covenant or a desired remedy where this is substantially equal to the relief sought in an action, or (c) the party determined to be the prevailing party by a court of law.
- 18. AGENCY CONFIRMATION.** The following agency relationships are hereby confirmed for this transaction:
Listing Agent: _____ (Print Firm Name) is the agent of
(check one): Seller exclusively, or both Buyer and Seller.
Selling Agent: _____ (Print Firm Name) (if not same as
Listing Agent) is the agent of (check one): Seller exclusively, Buyer exclusively, or both Buyer and Seller.
In the event the listing and/or selling agent represent both Buyer and Seller, neither Buyer nor Seller shall be liable to the other for any failure by the listing and/or selling agent to discharge any of their legal obligations to Buyer or Seller. Agents are not parties to this Contract.
- 19. MULTIPLE LISTING SERVICE (MLS).** Real estate brokers are authorized to report the terms of this transaction to any MLS to be published and disseminated to persons authorized to use the information on terms approved by the MLS.
- 20. KEYS.** Seller shall provide keys and, if in Seller's possession, means to operate all property locks, mailboxes, security systems, alarms, and garage door openers.
- 21. PROPERTY TAXES.** Any supplemental tax bills issued upon the reassessment of the Property following its change in ownership shall be paid as follows: (a) for periods prior to close of escrow, by Seller; and (b) for periods after close of escrow, by Buyer.
- 22. TAX WITHHOLDING.** Seller will furnish a withholding certificate stating that it is not a "foreign person" subject to withholding under federal or state law, and Buyer shall not be required to withhold tax under those laws.
- 23. ADDITIONAL TERMS.** If signed by both Buyer and Seller, the addenda or exhibits attached to this Contract are incorporated into this Contract by this reference.
- 24. ENTIRE AGREEMENT.** This Contract is intended by Buyer and Seller to be the final, complete, and exclusive expression of their agreement concerning the purchase and sale of the Property and may not be contradicted by evidence of any prior or contemporaneous oral or written agreement. Buyer represents and agrees that it has not relied on any statements of Seller, Seller's agents or any real estate brokers that are not expressly contained in this Contract. **Paragraphs with places for initials by Buyer are incorporated into this Contract only if initialed by both parties.**
- 25. INVALIDITY OF ANY PROVISION.** If any provision (or any portion of any provision) of this Contract is held by a court of competent jurisdiction, (or, if applicable to the Contract, by an arbitrator) to be illegal, invalid, or unenforceable under present or future laws effective during the term of this Contract, the legality, validity, and enforceability of the remaining provisions (or the balance of such provision) shall not be affected thereby.
- 26. NOTICES.** All notices given under this Agreement will be in writing and signed by the party giving the notice. Notice will be deemed received as follows: if delivered in person, upon delivery; if delivered by United States Postal Service, two (2) business days after deposit into the mails; if delivered by a national overnight courier on a next-day basis, one (1) business day after deposit into the mails; if delivered by facsimile during Seller's regular business hours, upon transmission; if delivered by facsimile outside of Seller's regular business hours or on a weekend or holiday, upon the commencing of the next business day.
- 27. DEFINITIONS.** As used in this Contract:
A. "Acceptance" means the time the offer or final counter offer is accepted by the other party, in accordance with paragraph 29 below.
B. Days "after" means the specified number of days after the occurrence of the event specified, not counting the calendar date on which the specified event occurs.
- 28. OTHER.**

Buyer and Seller acknowledge receipt of copy of this page, which constitutes Page 6 of 7 Pages.

Buyer's Initials (____) (____) Seller's Initials (____) (____)

29. OFFER. This Contract is an offer to purchase the Property on the above terms and conditions. Unless Seller accepts this Contract by delivering a signed copy of it in person, by mail, or facsimile to Buyer or Buyer's agent: _____ by _____ AM PM on _____, this offer shall be deemed revoked and Buyer's deposit shall be returned. This Contract and any supplement, addendum, or modification, including any photocopy or facsimile, may be signed in two or more counterparts, all of which shall constitute one and the same writing.

BUYER'S OFFER

The undersigned offers to purchase the Property on the above terms and conditions.

Buyer: _____ **Buyer:** _____

SELLER'S ACCEPTANCE

Seller accepts the Buyer's offer and agrees to sell the Property on the above terms and conditions (if checked: **SUBJECT TO THE TERMS AND CONDITIONS OF THE ATTACHED COUNTER OFFER**).

Only upon completion of the sale and the transfer of the Property to Buyer, Seller instructs Escrow Holder to disburse from Seller's proceeds the following sales commission for real estate brokerage services: _____ to _____, who is responsible for arranging any commission splits with real estate licensees. Real estate agents and brokers are not parties to this Contract. Seller's agent is authorized to deliver a signed copy of this Contract to Buyer.

Seller: _____ **Date:** _____ **Time:** _____

By: _____

Title: _____

BUYER'S ACKNOWLEDGMENT OF RECEIPT

Buyer, or Buyer's agent, acknowledges receipt of Seller's signed acceptance on _____, at _____ AM PM.

By: _____

Buyer and Seller acknowledge receipt of copy of this page, which constitutes Page 7 of 7 Pages.

Buyer's Initials (_____) (_____) Seller's Initials (_____) (_____)